

12 35
21



1998

Illinois Register

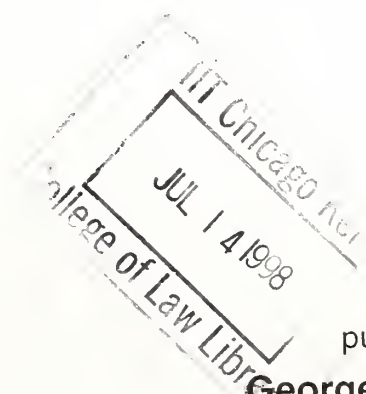
Rules of Governmental Agencies

Volume 22, Issue 28—July 10, 1998

Pages 11,665 - 12,421

Index Department
Administrative Code Div.
111 East Monroe Street
Springfield, IL 62756
(217) 782-7017
<http://www.sos.state.il.us>

Printed on recycled paper



published by
George H. Ryan
Secretary of State

TABLE OF CONTENTS

July 10, 1998 Volume 22, Issue 28

PROPOSED RULES

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF

Travel	80 Ill. Adm. Code 2800	11665
--------	------------------------	-------

DEPARTMENT OF HUMAN SERVICES

Audit Requirements	89 Ill. Adm. Code 507	11667
Award And Monitoring Of Funds	77 Ill. Adm. Code 2030	11669
Food Stamps	89 Ill. Adm. Code 121	11671
General Administrative Provisions	89 Ill. Adm. Code 10	11673
Grants	59 Ill. Adm. Code 103	11677
Medicaid Home And Community-Based Services Waiver Program For Individuals With Developmental Disabilities	59 Ill. Adm. Code 120	11679
Subacute Alcoholism And Substance Abuse Treatment Services	77 Ill. Adm. Code 2090	11681
Temporary Assistance For Needy Families	89 Ill. Adm. Code 112	11683

INSURANCE, DEPARTMENT OF

Individual And Group Life Insurance Policy Illustrations	50 Ill. Adm. Code 1406	11685
--	------------------------	-------

SECRETARY OF STATE

Standard Procurement	44 Ill. Adm. Code 2000	11695
----------------------	------------------------	-------

ADOPTED RULES

AGRICULTURE, DEPARTMENT OF

Civil Administrative Code	8 Ill. Adm. Code 3	11698
---------------------------	--------------------	-------

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF

The Travel Regulation Council	80 Ill. Adm. Code 3000	11713
-------------------------------	------------------------	-------

COMMERCE COMMISSION, ILLINOIS

Uniform System Of Accounts For Sewer Utilities	83 Ill. Adm. Code 650	11722
--	-----------------------	-------

Uniform System Of Accounts For Water Utilities

	83 Ill. Adm. Code 605	11742
--	-----------------------	-------

EDUCATION, STATE BOARD OF

Certification	23 Ill. Adm. Code 25	11767
---------------	----------------------	-------

HUMAN RIGHTS, DEPARTMENT OF

Procedures Applicable To All Agencies	44 Ill. Adm. Code 750	11774
---------------------------------------	-----------------------	-------

NATURAL RESOURCES, DEPARTMENT OF

Camping On Department Of Natural Resources Properties	17 Ill. Adm. Code 130	11781
---	-----------------------	-------

POLLUTION CONTROL BOARD

Nonmethane Organic Compounds	35 Ill. Adm. Code 220	11790
Permits And General Provisions	35 Ill. Adm. Code 201	11823

PUBLIC HEALTH, DEPARTMENT OF

Emergency Medical Services And Trauma Center Code	77 Ill. Adm. Code 515	11835
---	-----------------------	-------

REVENUE, DEPARTMENT OF

Retailers' Occupation Tax	86 Ill. Adm. Code 130	11874
Telecommunications Excise Tax	86 Ill. Adm. Code 495	11886

TRANSPORTATION, DEPARTMENT OF

Inspection Procedures For Type I School Buses	92 Ill. Adm. Code 441	11889
Tourist Oriented Directional Signing Program	92 Ill. Adm. Code 541	12001

EMERGENCY RULES

ATTORNEY GENERAL

Attorney General's Procurement	44 Ill. Adm. Code 1300	12013
--------------------------------	------------------------	-------

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF

Travel	80 Ill. Adm. Code 2800	12082
--------	------------------------	-------

COMPTROLLER, OFFICE OF THE

Standard Procurement	44 Ill. Adm. Code 1120	12087
----------------------	------------------------	-------

DEPARTMENT OF HUMAN SERVICES

Audit Requirements	
89 Ill. Adm. Code 507	12154
Award And Monitoring Of Funds	
77 Ill. Adm. Code 2030	12158
Food Stamps	
89 Ill. Adm. Code 121	12167
Grants	
59 Ill. Adm. Code 103	12176
Medicaid Home And Community-Based Services Waiver Program For Individuals With Developmental Disabilities	
59 Ill. Adm. Code 120	12185
Subacute Alcoholism And Substance Abuse Treatment Services	
77 Ill. Adm. Code 2090	12189
Temporary Assistance For Needy Families	
89 Ill. Adm. Code 112	12197
SECRETARY OF STATE	
Standard Procurement	
44 Ill. Adm. Code 2000	12208

NOTICE OF PUBLIC INFORMATION

POLLUTION CONTROL BOARD	
Final Actions Taken By The Pollution Control Board In Adjusted Standards Proceedings During Fiscal Year 1998 (July 1, 1997, Through June 30, 1998)	
	12283

REVENUE, DEPARTMENT OF	
Interest Rate Information Pursuant To The Uniform Penalty And Interest Act	
	12287

REGULATORY AGENDA

AGRICULTURE, DEPARTMENT OF	
Swine Disease Control And Eradication Act	
8 Ill. Adm. Code 105, et al	12288

COMPTROLLER MERIT COMMISSION	
Merit Commission Rules	
80 Ill. Adm. Code 100	12309

INSURANCE, DEPARTMENT OF	
Preamble And Definitions	
50 Ill. Adm. Code 751, et al	12310

LIQUOR CONTROL COMMISSION, ILLINOIS	
The Illinois Liquor Control Commission	
11 Ill. Adm. Code 100	12317

NUCLEAR SAFETY, DEPARTMENT OF	
Fees For Radioactive Material Licensees And Registrants	
32 Ill. Adm. Code 331, et al	12319
POLLUTION CONTROL BOARD	
General Rules	
35 Ill. Adm. Code 101, et al	12326
REVENUE, DEPARTMENT OF	
Income Tax	
86 Ill. Adm. Code 100, et al	12385
SECRETARY OF STATE	
Illinois Securities Law Of 1953	
14 Ill. Adm. Code 130, et al	12406
TRANSPORTATION, DEPARTMENT OF	
Minimum Safety Standards For Construction Of School Buses Used In Special Education Transportation	
92 Ill. Adm. Code 444, et al	12415

JOINT COMMITTEE ON ADMINISTRATIVE RULES

Second Notices Received	12420
-------------------------------	-------

ISSUES INDEX I-1

Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

April 17, 1998 - Issue 16: Through	March 31, 1998
July 17, 1998 - Issue 29: Through	June 30, 1998
October 16, 1998 - Issue 42: Through	September 30, 1998
January 15, 1999 - Issue 3: Through	December 31, 1998 (Annual)

INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

REGISTER PUBLICATION SCHEDULE 1998

Material Rec'd before Noon on:	Will be in Issue #:	Published on:	Material Rec'd before Noon on:	Will be in Issue #:	Published on:
Dec. 23, 1997	1	Jan. 2, 1998	June 30, 1998	28	July 10, 1998
Dec. 31, 1997	2	Jan. 9, 1998	July 7, 1998	29	July 17, 1998
Jan. 6, 1998	3	Jan. 16, 1998	July 14, 1998	30	July 24, 1998
Jan. 13, 1998	4	Jan. 23, 1998	July 21, 1998	31	July 31, 1998
Jan. 20, 1998	5	Jan. 30, 1998	July 28, 1998	32	Aug. 7, 1998
Jan. 27, 1998	6	Feb. 6, 1998	Aug. 4, 1998	33	Aug. 14, 1998
Feb. 3, 1998	7	Feb. 13, 1998	Aug. 11, 1998	34	Aug. 21, 1998
Feb. 10, 1998	8	Feb. 20, 1998	Aug. 18, 1998	35	Aug. 28, 1998
Feb. 17, 1998	9	Feb. 27, 1998	Aug. 25, 1998	36	Sept. 4, 1998
Feb. 24, 1998	10	Mar. 6, 1998	Sept. 1, 1998	37	Sept. 11, 1998
Mar. 3, 1998	11	Mar. 13, 1998	Sept. 8, 1998	38	Sept. 18, 1998
Mar. 10, 1998	12	Mar. 20, 1998	Sept. 15, 1998	39	Sept. 25, 1998
Mar. 17, 1998	13	Mar. 27, 1998	Sept. 22, 1998	40	Oct. 2, 1998
Mar. 24, 1998	14	Apr. 3, 1998	Sept. 29, 1998	41	Oct. 9, 1998
Mar. 31, 1998	15	Apr. 10, 1998	Oct. 6, 1998	42	Oct. 16, 1998
Apr. 7, 1998	16	Apr. 17, 1998	Oct. 13, 1998	43	Oct. 23, 1998
Apr. 14, 1998	17	Apr. 24, 1998	Oct. 20, 1998	44	Oct. 30, 1998
Apr. 21, 1998	18	May 1, 1998	Oct. 27, 1998	45	Nov. 6, 1998
Apr. 28, 1998	19	May 8, 1998	Nov. 3, 1998*	46	Nov. 13, 1998
May 5, 1998	20	May 15, 1998	Nov. 10, 1998	47	Nov. 20, 1998
May 12, 1998	21	May 22, 1998	Nov. 17, 1998	48	Nov. 30, 1998*
May 19, 1998	22	May 29, 1998	Nov. 24, 1998	49	Dec. 4, 1998
May 26, 1998	23	June 5, 1998	Dec. 1, 1998	50	Dec. 11, 1998
June 2, 1998	24	June 12, 1998	Dec. 8, 1998	51	Dec. 18, 1998
June 9, 1998	25	June 19, 1998	Dec. 15, 1998	52	Dec. 28, 1998*
June 16, 1998	26	June 26, 1998	Dec. 22, 1998	1	Jan. 4, 1999*
June 23, 1998	27	July 6, 1998*	Dec. 29, 1998	2	Jan. 8, 1999

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).

* Monday

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Travel
- 2) Code Citation: 80 Ill Adm. Code 2800
- 3) Section Numbers: Proposed Action:
2800.Appendix A Amend
- 4) Statutory Authority: Implementing and authorized by Sections 12, 12-1, 12-2, and 12-3 of the State Finance Act [30 ILCS 105/12, 12-1, 12-2 and 12-3] and authorized by the Travel Regulation Council (80 Ill. Adm. Code 3000).
- 5) A Complete Description of the Subjects and Issues Involved: The amendments are being filed to increase lodging reimbursement rates for agencies under the jurisdiction of the Governor's Travel Control Board.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? This rulemaking refers to the Travel Regulation Council (80 Ill. Adm. Code 3000) which has incorporations by reference.
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Stephen W. Seiple
720 Stratton Office Building
Springfield IL 62706
217/782-9669

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance:
None
- C) Types of professional skills necessary for compliance: None

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The need for the rulemaking did not come to the Department's attention until after the timeframe in which a regulatory agenda was to be filed.

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments that appear on page 12082 of this edition of the Illinois Register.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED RULES

1) Heading of the Part: Audit Requirements2) Code Citation: 89 Ill. Adm. Code 5073) Section Numbers: Proposed Action:
507.10 New4) Statutory Authority: Implementing and authorized by Department of Human Services Act [20 ILCS 1305]5) A Complete Description of the Subjects and Issues involved: This Section contains the Audit Requirements for each provider receiving purchase of service or grant contract funding from the Department of Human Services. The requirements vary by the total funding received by the Provider from DHS and other sources. The Section explains the type of audit required, submission standards and submission dates. Other Sections are being repealed within DHS rules and some Sections are being revised to correct cite references.6) Will this proposed rule replace an emergency rule currently in effect?
Yes7) Does this rulemaking contain an automatic repeal date? No8) Does this proposed rule (amendment, repealer) contain incorporations by reference? No9) Are there any other amendments pending on this Part? No10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.11) Time, Place, and Manner in which interested persons may comment on this Proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, IL 62762
Telephone number: (217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED RULES

12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.A) Types of small businesses, small municipalities and not for profit corporations affected: NoneB) Reporting, bookkeeping or other procedures required for compliance: NoneC) Types of professional skills necessary for compliance: None13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: It was anticipated at the time of January 1998 Regulatory Agenda was developed.

The full text of the Proposed Rules is located in the
Rules that appear on page 11664 of the Illinois Register.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Award and Monitoring of Funds

2) Code Citation: 77 Ill. Adm. Code 2030

3) Section Numbers:
2030.620 Proposed Action:
2030.810 Repeal
Amended

4) Statutory Authority: Authorized by the Illinois Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301].

5) A Complete Description of the Subjects and Issues involved: Section 2030.620 is being repealed in conjunction with the Department's efforts to consolidate Audit Requirements. The new Audit Requirements will assure compliance with State and Federal laws and regulations. Section 2030.810 is being amended to change "one visit" requirement to "periodic". This will allow DHS to concentrate its monitoring efforts on agencies with multiple contracts or large funding amounts.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
Telephone number: (217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis: These Revisions amend current

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

practices to comply with Federal regulatory requirements. These regulations are less restrictive than current rules.

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Local governments and not-for-profits funded by DHS.

B) Reporting, bookkeeping or other procedures required for compliance: Standard Fiscal Accounting practices

C) Types of professional skills necessary form compliance: Auditing/Accounting skills

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: Not anticipated at the time of January 1998 Regulatory Agenda was developed.

The full text of the Proposed Amendments is identical to the Emergency Amendments that appear on page 12158 of this issue of the Illinois Register.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Food Stamps
- 2) Code Citation: 89 Ill. Adm. Code 121
- 3) Section Numbers: 121.105
Proposed Action: Amendment
- 4) Statutory Authority: Implementing Section 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13] and Senate Bill 320.
- 5) A Complete Description of the Subjects and Issues involved: These proposed amendments extend the State Food Program beyond June 30, 1998. Senate Bill 320 authorized the Department to provide nutrition services to non-citizens who are 65 years of age or older, under 18 years of age, or disabled, and who were in the United States prior to August 22, 1996 and are not eligible for the Federal Food Stamp Program due to their non-citizen status. The State Food Program was created to provide assistance with the food needs of individuals ineligible for the Food Stamp Program solely due to citizenship requirements. To qualify, individuals must be under age 18, or age 65 or older, or disabled. Individuals who qualify for the program and are under age 18 receive \$80 in monthly food stamp benefits. Individuals who qualify for the program and are elderly or disabled receive \$43 in monthly food stamp benefits.
- 6) Will this proposed rule replace an emergency rule currently in effect?
Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
121.160	Amendment	22 Ill. Reg. 9654
121.162	Amendment	22 Ill. Reg. 9654
121.164	Amendment	22 Ill. Reg. 9654
121.177	New Section	22 Ill. Reg. 9654
121.179	New Section	22 Ill. Reg. 9654
121.182	Amendment	22 Ill. Reg. 8258
121.184	Amendment	22 Ill. Reg. 9654
121.188	Amendment	22 Ill. Reg. 9654
121.220	Amendment	22 Ill. Reg. 9654
121.225	New Section	22 Ill. Reg. 9654
121.226	New Section	22 Ill. Reg. 9654

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Mrs. Susan Wartner Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
(217) 785-9772
- 12) Initial Regulatory Flexibility Analysis:
A) Types of small businesses, small municipalities and not for profit corporations affected: None
B) Re-reporting, bookkeeping or other procedures required for compliance: None
C) Types of professional skills necessary for compliance: None
- 13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included in either of the 2 most recent regulatory agendas because: It was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of Proposed Amendments is identical to the text of the *Emergency Amendments* which appears in this issue of the *Register* on page _____.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

1 Heading of the Part: General Administrative Provisions2) Code Citation: 89 Ill. Adm. Code 103) Section Numbers: Proposed Action:
10.430 Amendment4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13].

5) A Complete Description of the Subjects and Issues Involved These proposed amendments revise authorization provisions. This change is being made so that all applicants will receive assistance from the same point in time. These proposed amendments establish that financial assistance will no longer be provided prior to the 30th day following application. The 30-day period will ensure equitable treatment for all applicants. As a result of these proposed amendments, financial assistance for Aid to the Aged, Blind or Disabled, Interim Assistance and Temporary Assistance for Needy Families will be authorized effective 30 days after the date of application provided the case is eligible on that date.

6) Will this proposed rule replace an emergency rule currently in effect? No7) Does this rulemaking contain an automatic repeal date? No8) Does this proposed amendment contain incorporations by reference? No9) Are there any other amendments pending on this Part? No10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days of the date of this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Mrs. Susan Warner Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
Telephone number: (217) 785-9772

12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

A) Types of small businesses, small municipalities and not for profit corporations affected: NoneB) Reporting, bookkeeping or other procedures required for compliance: NoneC) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included in either of the two most recent regulatory agendas because it was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of Proposed Amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

PART 10

GENERAL ADMINISTRATIVE PROVISIONS

SUBPART A: APPLICABILITY AND DEFINITIONS

Section

10.101 Incorporation by Reference
10.110 Applicability
10.120 Definitions
10.130 Assistance Programs
10.140 Assistance Program Restrictions

SUBPART B: RIGHTS AND RESPONSIBILITIES

Section

10.210 Rights of Clients
10.270 Notice to Client
10.280 Right to Appeal
10.281 Continuation of Assistance Pending Appeal
10.282 Time Limit for Filing an Appeal
10.284 Child Care
10.290 Voluntary Repayment of Assistance
10.295 Correction of Underpayments
10.300 Recovery of Assistance
10.310 Estate Claims
10.320 Real Property Liens
10.330 Filing and Renewal of Liens
10.340 Foreclosure of Liens
10.350 Release of Liens
10.360 Personal Injury Claims
10.370 Convictions of Fraud - Eligibility
10.380 Single Conviction of Fraud - Administrative Review Board

SUBPART C: APPLICATION PROCESS

Section

10.415 Local Office Action on Application for Public Assistance
10.420 Time Limitations on the Disposition of an Application
10.430 Approval of an Application and Initial Authorization of Financial Assistance
10.438 General Assistance Approval Provisions
10.440 Denial of an Application

AUTHORITY: Implementing Articles I through IX and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IX and 12-13].

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

SOURCE: Emergency rules adopted at 21 Ill. Reg. 9515, effective July 1, 1997, for a maximum of 150 days; adopted at 21 Ill. Reg. 15515, effective November 26, 1997; amended at 22 Ill. Reg. _____, effective _____.

SUBPART C: APPLICATION PROCESS

Section 10.430 Approval of an Application and Initial Authorization of Financial Assistance

- a) Financial assistance (for Aid to the Aged, Blind or Disabled, Interim Assistance and Temporary Assistance for Needy Families) shall be authorized effective 30 days after the date of application provided the case is eligible on that date. from the earlier of:
- 1) the date of decision on the current application; or
 - 2) thirty days after the date of application provided the case is eligible on that date.
- b) Financial assistance for General Assistance shall be authorized effective:
- 1) Thirty days following the date of application.
 - 2) If General Assistance (GA) is approved as a result of termination of Temporary Assistance for Needy Families (TANF) or Aid to the Aged, Blind or Disabled (AABD) assistance or deletion (TANF only) for certain non-financial reasons (see Section 10.270(f)), assistance shall be authorized with no gap if an application is filed within 30 days after the notice of termination of TANF or AABD or deletion (TANF only) (see also Section 10.270).
 - c) If the applicant is determined eligible for financial assistance, the notice (see Section 10.420) shall state the amount of financial assistance to be provided, and a statement of the reasons for any partial grant amounts. Partial grant amount is defined as the maximum grant that a family unit for whom application for public assistance was filed is eligible to receive, less any reductions resulting from the consideration.

(Source: Amended at 22 Ill. Reg. _____, effective _____.)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Grants
- 2) Code Citation: 59 Ill. Adm. Code 103
- 3) Section Numbers: Proposed Action:
103.120 Amended
- 4) Statutory Authority: Implementing Sections 15, 34 and 34.1 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15, 34 and 34.1] and the Community Services Act [405 ILCS 30] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5].
- 5) A Complete Description of the Subjects and Issues Involved: The Department of Human Services is consolidating all Audit Requirements into 89 Ill. Adm. Code 507. This Section is being amended to reflect this consolidation.
- 6) Will this proposed rule replace an emergency rule currently in effect?
Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
Telephone number: (217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary form compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Amendments appears in the

Emergency Amendments that appear on page 12176 of this issue of the Illinois Register.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Medicaid Home and Community-Based Services Waiver Program for Individuals with Developmental Disabilities

2) Code Citation: 59 Ill. Adm. Code 120

3) Section Numbers: Proposed Action:
120.90 Amendment

- 4) Statutory Authority: Implementing Section 3 of the Community Services Act [405 ILCS 30/3] and Sections 5-1 through 5-11 of the Public Aid Code [305 ILCS 5/5-1 through 5-11] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5].

- 5) A Complete Description of the Subjects and Issues involved: This Section refers to the audit requirements of the Office of Mental Health and the Office of Developmental Disabilities. These audit requirements have been replaced by 89 Ill. Adm. Code 507. This rulemaking amends this Section to refer to the new DHS audit requirements. This is part of the Department's effort to standardize and consolidate all audit requirements for purchase of service contracts and agreements into 89 Ill. Adm. Code 507.

- 6) Will this proposed rule replace an emergency rule currently in effect?
Yes

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed amendment contain incorporations by reference? No

- 9) Are there any other amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, IL 62762
(217) 785-9772
TTY: (217) 557-1547

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary form compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: It was not anticipated at the time of the January 1998 Regulatory Agenda.

The full text of the Proposed Amendments

Emergency Amendments that appear on page 11682 of this issue of the Illinois Register.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Subacute Alcoholism and Substance Abuse Treatment Services
- 2) Code Citation: 77 Ill. Adm. Code 2090
- 3) Section Numbers: 2090.30
Proposed Action: Amended
- 4) Statutory Authority: Implementing and authorized by Section 5-10 of the Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301/5-10].
- 5) A Complete Description of the Subjects and Issues involved: This Section refers to OASA audit requirements for submission of financial reports. The Section currently refers to 77 Ill. Adm. Code 2030.630. This Section is being repealed. It is being replaced with 89 Ill. Adm. Code 507. This amendment changes the reference.

6) Will this proposed amendment replace an emergency amendment currently in effect? Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this Proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
Telephone number: (217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary form compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent Regulatory Agendas because: This amendment was not anticipated at the time the 1998 January Regulatory Agenda was developed.

The full text of the Proposed Amendment(s) is identical to the text of the

Emergency Amendments that appear on page 12189 of this issue of the Illinois

Register.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Temporary Assistance for Needy Families

2) Code Citation: 89 Ill. Adm. Code 112

3) Section Numbers: 112.310
Proposed Action:
New Section

4) Statutory Authority: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].

5) A Complete Description of the Subjects and Issues involved: This rulemaking is intended to correct a problem in the Department's child care program unique to situations where the caregiver is not legally responsible for the children and is receiving assistance for the children only in a Temporary Assistance for Needy Families (TANF) grant.

The Department's child care program bases eligibility on the household's income. Once eligible, the amount a client has to pay as a co-payment is a function of the income of the household and the number of children in care. In families that include the parent of the child who is legally responsible for the child, or in families where the non-responsible caregiver is receiving assistance under TANF, this makes sense. However, if the caregiver is not otherwise legally responsible for the children (e.g., an aunt or grandmother), this child care system might be viewed as placing a legal responsibility for child care on the caregiver.

These proposed amendments allow a non-legally responsible relative to receive child care assistance without being responsible for the payment of child care as long as the children are receiving TANF assistance. This child care will be paid as part of the TANF program. All aspects of the Department's child care program will apply except those related to income eligibility and co-payments.

6) Will this proposed rule replace an emergency rule currently in effect?
Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
112.68	Amendment	22 Ill. Reg. 6024
112.78	Amendment	22 Ill. Reg. 4354
112.79	Amendment	22 Ill. Reg. 6024
112.305	Amendment	22 Ill. Reg. 9102

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after the date of this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Mrs. Susan Warner Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
Telephone number: (217) 785-9772

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included in either of the two most recent regulatory agendas because it was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of Proposed Amendments is identical to the text of the Emergency Amendments which appears in this issue of the Register on page _____.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Individual and Group Life Insurance Policy Illustrations

- 2) Code Citation: 50 Ill. Adm. Code 1406

- 3) Section Numbers:
1406.50 Proposed Action:
Amendment
1406.90
Amendment
1406.100

- 4) Statutory Authority: Implementing Sections 224 and 230.1 of the Illinois Insurance Code [215 ILCS 5/224 and 230.1] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

- 5) A Complete Description of the Subjects and Issues Involved: Part 1406 is being amended to make a couple of technical corrections that were discovered following adoption. In Section 1406.50(d) "substantially similar to the following" will be deleted and "The following statements" will be added in lieu thereof. In addition, several words were inadvertently left out of Section 1406.50(d)(2) and are now being added. Finally, these amendments will also correct two cross references that were incorrectly cited in Section 1406.90(c) and 1406.100(f)(2).

- 6) Will this proposed amendment replace an emergency rule currently in effect? No

- 7) Does this amendment contain an automatic repeal date? No

- 8) Does this proposed amendment contain incorporations by reference? No

- 9) Are there any other proposed amendments depending on this Part? No

- 10) Statement of Statewide Policy Objectives: These amendments will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Eve Blackwell-Lewis	Mary Meyer
Staff Attorney	Paralegal
Department of Insurance	Department of Insurance
320 West Washington	320 West Washington
(or)	
Springfield, IL 62677	Springfield, IL 62677
(217) 782-2867	(217) 785-8220

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: No small businesses, small municipalities or not-for-profit corporations will be affected by these amendments.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: These amendments do not require any additional professional skills for compliance with this Part.

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because the changes were not anticipated.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE
 CHAPTER 1: DEPARTMENT OF INSURANCE
 SUBCHAPTER s: LEGAL RESERVE LIFE INSURANCE

PART 1406

INDIVIDUAL AND GROUP LIFE INSURANCE POLICY
 ILLUSTRATIONS

Section	Purpose
1406.10	Applicability and Scope
1406.20	Definitions
1406.30	Policies to Be Illustrated
1406.40	Standards for Basic Illustrations
1406.50	Standards for Supplemental Illustrations
1406.60	General Rules and Prohibitions
1406.70	Delivery of Illustrations and Record Retention
1406.80	Annual Report-Notice to Policy Owners
1406.90	Annual Certifications
1406.100	Penalties
1406.110	

AUTHORITY: Implementing Sections 224 and 230.1 of the Illinois Insurance Code [215 ILCS 5/224 and 230.1] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

SOURCE: Adopted at 22 Ill. Reg. 3038, effective January 27, 1998; amended at 22 Ill. Reg. _____, effective _____.

Section 1406.50 Standards for Basic Illustrations

a) Format. A basic illustration shall conform with the following requirements:

- 1) The illustration shall be labeled with the date on which it was prepared.
- 2) Each page, including any explanatory notes or pages, shall be numbered and show its relationship to the total number of pages in the illustration (e.g., the fourth page of a seven-page illustration shall be labeled "page 4 of 7 pages").
- 3) The assumed dates of payment receipt and benefit pay-out within a policy year shall be clearly identified.
- 4) If the age of the proposed insured is shown as a component of the tabular detail, it shall be issue age plus the numbers of years the policy is assumed to have been in force.
- 5) The assumed payments on which the illustrated benefits and values are based shall be identified as premium outlay or contract premium, as applicable. For policies that do not require a specific contract premium, the illustrated payments shall be

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

identified as premium outlay.

- 6) Guaranteed death benefits and values available upon surrender, if any, for the illustrated premium outlay or contract premium shall be shown and clearly labeled guaranteed.
- 7) If the illustration shows any non-guaranteed elements, they cannot be based on a scale more favorable to the policy owner than the insurer's illustrated scale at any duration. These elements shall be clearly labeled non-guaranteed.
- 8) The guaranteed elements, if any, shall be shown before corresponding non-guaranteed elements and shall be specifically referred to on any page of an illustration that shows or describes only the non-guaranteed elements (e.g., "see page one for guaranteed elements").
- 9) The account or accumulation value of a policy, if shown, shall be identified by the name this value is given in the policy being illustrated and shown in close proximity to the corresponding value available upon surrender.
- 10) The value available upon surrender shall be identified by the name this value is given in the policy being illustrated and shall be the amount available to the policy owner in a lump sum after deduction of surrender charges, policy loans and policy loan interest, as applicable.
- 11) Illustrations may show policy benefits and values in graphic or chart form in addition to the tabular form.
- 12) Any illustration of non-guaranteed elements shall be accompanied by a statement indicating that:
 - A) The benefits and values are not guaranteed;
 - B) The assumptions on which they are based are subject to change by the insurer; and
 - C) Actual results may be more or less favorable.
- 13) If the illustration shows that the premium payer may have the option to allow policy charges to be paid using non-guaranteed values, the illustration must clearly disclose that a charge continues to be required and that, depending on actual results, the premium payer may need to continue or resume premium outlays. Similar disclosure shall be made for premium outlay of lesser amounts or shorter durations than the contract premium. If a contract premium is due, the premium outlay display shall not be left blank or show zero unless accompanied by an asterisk or similar mark to draw attention to the fact that the policy is not paid up.
- 14) If the applicant plans to use dividends or policy values, guaranteed or non-guaranteed, to pay all or a portion of the contract premium or policy charges, or for any other purpose, the illustration may reflect those plans and the impact on future policy benefits and values.

- a) Narrative Summary. A basic illustration shall include the following:
 - 1) A brief description of the policy being illustrated, including a

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

statement that it is either an individual or group life insurance policy;

- 2) A brief description of the premium outlay or contract premium, as applicable, for the policy. For a policy that does not require payment of a specific contract premium, the illustration shall show the premium outlay that must be paid to guarantee coverage for the term of the contract, subject to maximum premiums allowable to qualify as a life insurance policy under the applicable provisions of the Internal Revenue Code;
- 3) A brief description of any policy features, riders or options, guaranteed or non-guaranteed, shown in the basic illustration and the impact they may have on the benefits and values of the policy;
- 4) Identification and a brief definition of column headings and key terms used in the illustration; and
- 5) A statement containing in substance the following: "This illustration assumes that the currently illustrated non-guaranteed elements will continue unchanged for all years shown. This is not likely to occur, and actual results may be more or less favorable than those shown."

c) Numeric Summary.

- 1) Following the narrative summary, a basic illustration shall include a numeric summary of the death benefits and values and the premium outlay and contract premium, as applicable. For a policy that provides for a contract premium, the guaranteed death benefits and values shall be based on the contract premium. This summary shall be shown for at least policy years 5, 10 and 20 and age 70, if applicable, on the three bases shown below. For multiple life policies the summary shall show policy years 5, 10, 20 and 30.

A) Policy guarantees;

B) Insurer's illustrated scale;

C) Insurer's illustrated scale used but with the non-guaranteed elements reduced as follows:

- i) Dividends at 50% of the dividends contained in the illustrated scale used;
- ii) Non-guaranteed credited interest at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used;
- iii) All non-guaranteed charges, including but not limited to term insurance charges, mortality and expense charges, at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used.

- 2) In addition, if coverage would cease prior to policy maturity or age 100, the year in which coverage ceases shall be identified for each of the 3 bases.

d) Statements. The following statements substantially similar

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

to--the--following shall be included on the same page as the numeric summary and signed by the applicant, or the policy owner in the case of an illustration provided at time of delivery, as required by this Part.

- 1) A statement to be signed and dated by the applicant or policy owner reading as follows: "I have received a copy of this illustration and understand that this illustration assumes that the current illustrated non-guaranteed elements will continue unchanged for all years shown. This is not likely to occur, and actual results may be more or less favorable than those shown."
- 2) A statement to be signed and dated by the insurance producer or other authorized representative of the insurer reading as follows: "I have informed the applicant or policy owner that this illustration assumes that the currently illustrated non-guaranteed elements will continue unchanged for all years shown. This is not likely to occur, and actual results may be more or less favorable than those shown."

e) Tabular Detail.

- 1) A basic illustration shall include the following for at least each policy year from 1 to 10 and for every fifth policy year thereafter ending at age 100, policy maturity or final expiration; and except for term insurance beyond the 20th year, for any year in which the premium outlay and contract premium, if applicable, is to change.

A) The premium outlay and mode the applicant plans to pay and the contract premium, as applicable;

B) The corresponding guaranteed death benefit, as provided in the policy; and

C) The corresponding guaranteed value available upon surrender, as provided in the policy.

- 2) For a policy that provides for a contract premium, the guaranteed death benefit and value available upon surrender shall correspond to the contract premium.

- 3) Non-guaranteed elements may be shown if described in the contract. In the case of an illustration for a policy on which the insurer intends to credit terminal dividends, they may be shown if the insurer's current practice is to pay terminal dividends. If any non-guaranteed elements are shown they must be shown at the same durations as the corresponding guaranteed elements, if any. If no guaranteed benefit or value is available at any duration for which a non-guaranteed benefit or value is shown, a zero shall be displayed in the guaranteed column.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

- a) In the case of a policy designated as one for which illustrations will be used, the insurer shall provide each policy owner with an annual report on the status of the policy that shall contain at least the following information:

1) For universal life policies, the report shall include the following:

- A) The beginning and end date of the current report period;
- B) The policy value at the end of the previous report period and at the end of the current report period;
- C) The total amounts that have been credited or debited to the policy value during the current report period, identifying each by type (e.g., interest, mortality, expense and riders);
- D) The current death benefit at the end of the current report period on each life covered by the policy;
- E) The net cash surrender value of the policy as of the end of the current report period;
- F) The amount of outstanding loans, if any, as of the end of the current report period; and
- G) Either:
 - i) For fixed premium policies, if, assuming guaranteed interest, mortality and expense loads and continued scheduled premium payments, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice to this effect shall be included in the report; or
 - ii) For flexible premium policies, if, assuming guaranteed interest, mortality and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect shall be included in the report.

- 2) For all other policies, where applicable:

- A) Current death benefit;
- B) Annual contract premium;
- C) Current cash surrender value;
- D) Current dividend;
- E) Application of current dividend; and
- F) Amount of outstanding loan.

- 3) Insurers writing life insurance policies that do not build nonforfeiture values shall only be required to provide an annual report with respect to these policies for those years when a change has been made to non-guaranteed policy elements by the insurer.

- b) If the annual report does not include an in force illustration, it shall contain the following notice displayed prominently: **"IMPORTANT POLICY OWNER NOTICE:** You should consider requesting more detailed

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

information about your policy to understand how it may perform in the future. You should not consider replacement of your policy or make changes in your coverage without requesting a current illustration. You may annually request, without charge, such an illustration by calling [insurer's phone number], writing to [insurer's name] at [insurer's address] or contacting your insurance producer. If you do not receive a current illustration of your policy within 30 days from your request, you should contact the Department of Insurance." The insurer may vary the sequential order of the methods for obtaining an in force illustration.

- c) Upon the request of the policy owner, the insurer shall furnish an in force illustration of current and future benefits and values based on the insurer's present illustrated scale. This illustration shall comply with the requirements of Section 1406.70(a) through (c) and Section 1406.50(a) and (e) of this Part. No signature or other acknowledgement of receipt of this illustration will be required.
- d) If an adverse change in non-guaranteed elements that could affect the policy has been made by the insurer since the last annual report, the annual report shall contain a notice of that fact and the nature of the change will be prominently displayed.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1406.100 Annual Certifications

- a) The Board of Directors of each insurer shall appoint one or more illustration actuaries.
- b) The illustration actuary shall certify that the disciplined current scale used in illustrations is in conformity with the Actuarial Standard of practice No. 24, Compliance with the NAIC Life Insurance Illustrations Model Regulation promulgated by the Actuarial Standards Board (ASB), (1720 I Street, N.W., 7th Floor, Washington, DC 20006), and that the illustrated scales used in insurer-authorized illustrations meet the requirements of this Part.
- c) The illustration actuary shall:
 - 1) Be a member of the American Academy of Actuaries;
 - 2) Be familiar with the standard of practice regarding life insurance policy illustrations;
 - 3) Not have been found by the Director, following appropriate notice and hearing, to have:
 - A) Violated any provision of, or any obligation imposed by, the insurance law or other law in the course of his or her dealings as an illustration actuary;
 - B) Been found guilty of fraudulent or dishonest practices;
 - C) Demonstrated his or her incompetence, lack of cooperation, or untrustworthiness to act as an illustration actuary; or
 - D) Resigned or been removed as an illustration actuary within

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

- 1) That the illustration formats meet the requirements of this Part and that the scales used in insurer-authorized illustrations are those scales certified by the illustration actuary; and
- 2) That the insurer has provided its insurance producers with information about the expense allocation method used by the insurer in its illustrations and disclosed as required by subsection (c)(6) of this Section.
- g) If an insurer changes the illustration actuary responsible for all or a portion of the insurer's policy forms, the insurer shall notify the Director of that fact promptly and disclose the reason for the change.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

the past 5 years as a result of acts or omissions indicated in any adverse report on examination or as a result of a failure to adhere to generally acceptable actuarial standards;

- 4) Not fail to notify the Director of any action taken by a commissioner of another state similar to that identified under subsection (c)(3) of this Section;
- 5) Disclose in the annual certification whether, since the last certification, a currently payable scale applicable for business issued within the previous 5 years and within the scope of the certification has been reduced for reasons other than changes in the experience factors underlying the disciplined current scale. If non-guaranteed elements illustrated for new policies are not consistent with those illustrated for similar in force policies, this must be disclosed in the annual certification. If non-guaranteed elements illustrated for both new and in force policies are not consistent with the non-guaranteed elements actually being paid, charged or credited to the same or similar forms, this must be disclosed in the annual certification; and
- 6) Disclose in the annual certification the method used to allocate overhead expenses for all illustrations:
 - A) Fully allocated expenses;
 - B) Marginal expenses; or
 - C) A generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the National Association of Insurance Commissioners or by the Director.
- d) The illustration actuary shall:
 - 1) File a certification with the insurer's Board of Directors:
 - A) Annually for all policy forms for which illustrations are used; and
 - B) Before a new policy form is illustrated.
 - 2) If an error in a previous certification is discovered, the illustration actuary shall notify the insurer's Board of Directors promptly.
- e) If an illustration actuary is unable to certify the scale for any policy form illustration the insurer intends to use, the actuary shall notify the Board of Directors of the insurer promptly of his or her inability to certify.
- f) An annual certification shall be filed with the Director by the insurer by no later than December 31 of each year for the 12 months immediately preceding the certification date itself. For the initial 1998 filing, the insurer shall provide a certification for the calendar months which follow the effective date of this Part. The insurer shall submit the actuarial certification as required by subsection (d) of this Section to the Life, Accident/Health Compliance Unit of the Illinois Department of Insurance. A responsible officer of the insurer, other than the illustration actuary, shall certify:

OFFICE OF THE SECRETARY OF STATE

NOTICE OF PROPOSED RULES

1) Heading of the Part: Standard Procurement

2) Code Citation: 44 Ill. Adm. Code 2000

3) Section Numbers: Proposed Action:

2000.01	New
2000.05	New
2000.08	New
2000.10	New
2000.15	New
2000.25	New
2000.525	New
2000.1005	New
2000.1510	New
2000.1560	New
2000.1570	New
2000.1580	New
2000.2005	New
2000.2010	New
2000.2012	New
2000.2015	New
2000.2020	New
2000.2025	New
2000.2030	New
2000.2035	New
2000.2036	New
2000.2037	New
2000.2038	New
2000.2040	New
2000.2043	New
2000.2044	New
2000.2045	New
2000.2046	New
2000.2047	New
2000.2050	New
2000.2055	New
2000.2060	New
2000.2560	New
2000.2570	New
2000.2800	New
2000.3005	New
2000.4005	New
2000.4505	New
2000.4510	New
2000.4530	New
2000.4535	New
2000.4540	New
2000.4545	New

OFFICE OF THE SECRETARY OF STATE

NOTICE OF PROPOSED RULES

2000.4570	New
2000.5013	New
2000.5015	New
2000.5020	New
2000.5030	New
2000.5035	New
2000.5310	New
2000.5510	New
2000.5520	New
2000.5530	New
2000.5540	New
2000.5550	New
2000.6010	New
2000.6500	New
2000.6510	New
2000.7000	New
2000.7010	New
2000.7015	New
2000.7020	New
2000.7025	New
2000.7030	New

4) Statutory Authority: The Illinois Procurement Code [30 ILCS 500] (see Public Act 90-572).

5) A Complete Description of the Subjects and Issues Involved: Section 1-30 of the Illinois Procurement Code requires that constitutional officers procure their needs in a manner substantially in accordance with the requirements of the Code, and that such officers promulgate rules no less restrictive than the requirements of the Code to govern procurements.

This rulemaking prescribes standard procurement rules for the Office of the Secretary of State in accordance with the requirements of the Illinois Procurement Code.

6) Will these proposed rule replace an emergency rule currently in effect?
Yes

7) Does this proposed rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference? No

9) Are there any other proposed amendments pending in this Part? No

10) Statement of Statewide Policy Objectives (if applicable): These proposed rules do not affect units of local government.

11) Time, Place, and Manner in which interested persons may comment on this

OFFICE OF THE SECRETARY OF STATE

NOTICE OF PROPOSED RULES

proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. Written comments may be submitted within 45 days after the publication of this notice to:

Jack L. Gooding
Office of the Secretary of State
124 Howlett Building
Springfield, IL 62756
217/782-5328

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Small businesses and not-for-profit corporations that will be affected are those that seek to provide goods and services, including equipment, supplies and professional and artistic services, to the Office of the Secretary of State.

B) Reporting, bookkeeping or other procedures required for compliance: Each contractor and subcontractor is required to maintain books and records relating to performance of the contract or subcontract and necessary to support amounts charged to the State for a period of 3 years from the later of the date of final payment under the contract or subcontract or completion of the contract or subcontract.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent Regulatory Agendas because: Public Act 90-572, which authorizes the rulemaking, was signed into law on February 6, 1998.

The full text of the Proposed Rule are identical to the Emergency Rules published in this Illinois Register on page 11698:

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Civil Administrative Code

2) Code Citation: 8 Ill. Adm. Code 3

3) Section Numbers: Adopted Action:

3.10	Amendment
3.20	Amendment
3.30	Amendment
3.40	Amendment
3.50	Amendment
3.60	Amendment
3.70	Amendment
3.80	Amendment
3.90	Amendment
3.100	Amendment
3.110	Amendment
3.120	Amendment
3.130	Amendment
3.140	Amendment
3.180	Repealed
3.190	Repealed
3.200	Repealed
3.210	Repealed
3.220	Repealed
3.230	Repealed

4) Statutory Authority: Section 40.23 of the Civil Administrative Code of Illinois [20 ILCS 205/40.23]; Section 16 of the Illinois Feeder Swine Dealer Licensing Act [225 ILCS 620/16]; Sections 15, 16 and 16.1 of the Illinois Livestock Dealer Licensing Act [225 ILCS 645/15, 16 and 16.1]; Sections 4 and 4.1 of the Slaughter Livestock Buyers Act [225 ILCS 655/4 and 4.1]; Section 14 of the Slaughter Livestock Buyers Act [225 ILCS 655/14]; Section 3 of the Livestock Auction Market Law [225 ILCS 640/3]; Section 8 of the Illinois Pesticide Act [415 ILCS 60/8]; and Section 16 of the Personal Property Storage Act [240 ILCS 10/16].

5) Effective Date of Amendments: June 25, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this proposed amendment contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: June 25, 1998

9) Notices of Proposal Published in Illinois Register: April 10, 1998, 22 Ill. Reg. 6265

DEPARTMENT OF AGRICULTURE
NOTICE OF ADOPTED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER a: GENERAL RULES

PART 3

DEPARTMENT OF AGRICULTURE ACTING AS TRUSTEE ON BEHALF OF CLAIMANTS
~~CIVIL-ADMINISTRATIVE-CODE~~

SUBPART A: PROCEDURE FOR THE COLLECTION,
CONTROL AND DISTRIBUTION OF SURETY BONDS RECEIVED BY THE
DIRECTOR OF THE ILLINOIS DEPARTMENT
OF AGRICULTURE ACTING AS TRUSTEE
ON BEHALF OF THE CLAIMANTS

Section	
3.10	Bonding
3.20	Investigation and-Audit by Trustee
3.30	Valid Claims
3.40	Hearing to Verify Claimants and Claim Amounts
3.50	Trust Accounts
3.60	Administrative Hearings
3.70	Cancellation of Surety Bond

SUBPART B: PROCEDURE FOR THE COLLECTION,
CONTROL AND DISTRIBUTION OF COLLATERAL CERTIFICATES-OF-DEPOSIT
~~AND-OTHER-SECURITY~~ FILED IN LIEU OF A SURETY BOND WITH
THE DIRECTOR OF THE ILLINOIS DEPARTMENT
OF AGRICULTURE ACTING ON BEHALF OF CLAIMANTS

Section	
3.80	Investigation and-Audit by Trustee
3.90	Collateral Certificate-of-Deposit-Guarantee-Agreement-and-Other--Types of-Pledged-Security
3.100	Valid Claims
3.110	Hearing to Verify Claimants and Claim Amounts
3.120	Dispute of Claims by Licensee/Registrant
3.130	Release of Payment to Claimants
3.140	Return of Collateral Certificate-of-Deposit-Guarantee-Agreement-and/or Pledged-Security When There Is No Business Failure

SUBPART C: PROCEDURE FOR THE COLLECTION, CONTROL
AND DISTRIBUTION OF GRAIN AND OTHER ASSETS RECEIVED BY THE
DIRECTOR OF THE ILLINOIS DEPARTMENT OF
AGRICULTURE ACTING AS TRUSTEE ON BEHALF
OF THE CLAIMANTS

Section	
3.180	Investigation and Audit by Trustee (Repealed)

DEPARTMENT OF AGRICULTURE
NOTICE OF ADOPTED AMENDMENTS

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version: The name of this Part is changed from "Civil Administrative Code" to "Department of Agriculture Acting as Trustee on Behalf of Claimants".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: References to the Illinois Compiled Statutes are added, and Ill. Adm. Code citations are corrected. Procedures and other information concerning grain warehouse/dealer claimants are either being stricken or repealed since that information is covered in the Grain Code [240 ILCS 40]. In Subpart B, language concerning collateral is clarified, and collateral acceptable to the Department is specified in each of the enabling statutes.

16) Information and questions regarding this adopted amendment shall be directed to:

Debbie Wakefield
Illinois Department of Agriculture
State Fairgrounds
P.O. Box 19281
Springfield, IL 62794-9281
217/785-5713
Facsimile: 217/785-4505

The full text of Adopted Amendments begin on the next page:

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

- 3.190 Valid Claims (Repealed)
 3.200 Hearing to Verify Claimants and Claim Amounts (Repealed)
 3.210 Dispute of Claims by Licensee/Registrant (Repealed)
 3.220 Release of Assets to Claimants (Repealed)
 3.230 Disposition of Assets; Trust Accounts (Repealed)

AUTHORITY: Implementing and authorized by Section 40.23 of the Civil Administrative Code of Illinois [20 ILCS 205/40.23]; implementing Section 16 of the Illinois Feeder Swine Dealer Licensing Act [225 ILCS 620/16]; implementing and authorized by Sections 15, 16 and 16.1 of the Illinois Livestock Dealer Licensing Act [225 ILCS 645/15, 16 and 16.1]; implementing Sections 4 and 4.1 of the Slaughter Livestock Buyers Act [225 ILCS 655/4 and 4.1]; implementing Section 14 of the Slaughter Livestock Buyers Act [225 ILCS 655/14]; implementing Section 3 of the Livestock Auction Market Law [225 ILCS 640/3]; implementing and authorized by Section 8 of the Illinois Pesticide Act [415 ILCS 60/8]; implementing and authorized by Section 16 of the Personal Property Storage Act [240 ILCS 10/16].

SOURCE: Rules and Regulations Relating to the Civil Administrative Code, filed December 16, 1975, effective December 27, 1975; amended October 18, 1977, effective October 28, 1977; codified at 5 Ill. Reg. 10433; amended at 8 Ill. Reg. 516, effective January 1, 1984; amended at 10 Ill. Reg. 4206, effective February 21, 1986; amended at 22 Ill. Reg. 11698, effective 03/25/1998.

SUBPART A: PROCEDURE FOR THE COLLECTION,
 CONTROL AND DISTRIBUTION OF SURETY BONDS RECEIVED BY THE
 DIRECTOR OF THE ILLINOIS DEPARTMENT
 OF AGRICULTURE ACTING AS TRUSTEE
 ON BEHALF OF THE CLAIMANTS

Section 3.10 Bonding

Pursuant to the Acts listed in Section 40.23 of the Civil Administrative Code of Illinois [20 ILCS 205/40.23] {Ill.-Rev.-Stat.-1981-ch-127-par-48-23} and the rules promulgated for the administration of such Acts, certain license holders or registrants are required to post a Surety Bond being a commercial Surety Bond or pledge other security for the purpose of providing a fund to satisfy certain specific creditors in the event of a failure. The Surety Bond shall be executed on forms supplied by the Department. Every bond shall be signed by the licensee/registrant in the same manner as the application for license/registration, acknowledged before a notary public, and if the application is a corporation, the corporate seal shall be affixed thereto.

(Source: Amended at 22 Ill. Reg. 11698, effective 03/25/1998)

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

Section 3.20 Investigation and Audit by Trustee

- a) When there is a failure of a licensee/registrant for which a Surety Bond has been posted, the Trustee shall conduct an investigation and audit to accumulate claims and documents as may be available to support claims against the Surety Bond. At the same time as public notice is given in the newspaper, the Trustee shall give notice by certified or registered mail to the Surety posting the bond of the possibility that claims may be forthcoming against the bond. Within the first two weeks of its investigation, the Department of Agriculture shall place at least 3 notices in a newspaper in the business' licensed location informing persons with claims to submit them to the Department.
- b) When a failure occurs, if, during the Department's examination or inspection, the examination or inspection reveals that the licensee/registrant is unable to meet the specific financial obligations as specified in the licensing/registration act, the Department of Agriculture shall give a written order of suspension in accordance with the provisions of the licensing/registration Act.

(Source: Amended at 22 Ill. Reg. 11698, effective 03/25/1998)

Section 3.30 Valid Claims

- a) Claims to be valid against a Surety Bond held by the Trustee shall be defined as bona fide obligations covered by enabling statute and/or Section 40.23 of the Civil Administrative Code of Illinois which are filed by claimants within the statute of claims limitation as established by the enabling statute, if one prevails, or the Mechanics Lien Act [770 ILCS 60] "An Act relating to contractors' and material men's liens, known as mechanics' liens" (Ill.-Rev.-Stat.-1981-ch-82-par-1-et-seq-), or 30 285 days from the date the business is closed, whichever is less.
- b) The closing date of a business shall be the date the Illinois Department of Agriculture commences any audit which results in the closing of the business or the date the business failed, whichever occurs first.
- c) All claims determined as being valid claims by the Illinois Department of Agriculture shall be considered as valid claims for the purposes of filing a claim against the surety bond pledged.

(Source: Amended at 22 Ill. Reg. 11698, effective 03/25/1998)

Section 3.40 Hearing to Verify Claimants and Claim Amounts

The Trustee shall give at least a 10-day notice by registered or certified mail

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

to the Surety posting the bond, the licensee/registrant, as well as to all known claimants, advising them of the date, time and place of the administrative hearing. A hearing to receive claims not previously submitted to the Trustee and to verify claimants and their amount shall be held by the Trustee in accordance with Section 3.60 of this Part 0-1117-Adm--Code-3-60. Notice of the date, time and place of the hearing shall be published in the official state newspaper and once in a newspaper in the business' licensed location. In the event that the surety fails to object to any of the valid claims (8 Ill. Adm. Code 1.114 1-315), the surety shall pay within thirty-five 35 days from the date of the hearing officer's decision, to the Director of the Illinois Department of Agriculture, as Trustee, the amount of the surety bond ordered to be paid to the Director of the Illinois Department of Agriculture, as Trustee, for the purpose of paying the valid claims. When requested, the Trustee will provide a breakdown on how the trust account was distributed. The final administrative decision (see 8 Ill. Adm. Code 1.177(f) 1-7544) and 1.124 1-340) shall be subject to judicial review in accordance with the Article-1117 Administrative Review Law, Code-of-Civil-Procedure [735 ILCS 5/Art. III] (1117-Rev-Stat-19017-ch-1107-par-3-101-et-seq-7).

(Source: Amended at 22 Ill. Reg. 11698, effective JUN 25 1998)

Section 3.50 Trust Accounts

The Department of Agriculture shall establish and deposit funds received from a liquidated bond into an interest-bearing trust account in a federally insured financial institution until payment to claimants is made. The funds in a trust account shall be paid to claimants with valid claims by check written by the Department. An accounting of the funds which are deposited in the trust account shall be maintained by the Department on a separate accounting record for each trust account, identifiable as to the source of such funds, and any accrued interest shall be prorated among the identified funds in amounts equal to the same percentage as each identified fund is to the total of the trust account. Accrued interest from funds in a trust account shall be available for payment of valid claims. In determining the type of account in which to deposit bond proceeds, the Department shall consider interest rates, the anticipated period of time before payment to claimants with valid claims will be made, maturity dates, and any other factors which could affect the maximization of funds for the benefit of claimants. Reports shall be made to the Comptroller of funds held in such accounts in accordance with Section 16 of the State "State Comptroller Act [15 ILCS 405/16] "4-1117-Rev-Stat-19017-ch-157-par-2167.

(Source: Amended at 22 Ill. Reg. 11698, effective JUN 25 1998)

Section 3.60 Administrative Hearings

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

Administrative hearings held by the Department are governed by the procedures established in the Illinois Administrative Procedure Act [5 ILCS 100] (1117-Rev-Stat-19917-ch-127-par-1001-1-et-seq-7) and the Department's Administrative Rules (8 Ill. Adm. Code 1) which pertain to administrative proceedings, contested cases, petitions and availability of Department of Agriculture files for public disclosure. All decisions and actions of the Department of Agriculture are subject to the Illinois Administrative Procedure Act and the Department's Administrative Rules.

(Source: Amended at 22 Ill. Reg. 11698, effective JUN 25 1998)

Section 3.70 Cancellation of Surety Bond

Persons having Surety Bonds filed with the Department of Agriculture shall use the following procedure in regard to cancellation of Surety Bonds:

- Notice of cancellation shall be sent by certified or registered mail or written notification delivered personally to the Director of the Department of Agriculture, State Fairgrounds, P.O. Box 19281, Springfield, Illinois 62794-9281 62706. A copy of the notice of cancellation shall be delivered to the principal on the same day as notice is delivered to the Director.
- Notice shall contain the Surety Bond number, amount of surety, and the name of principal.
- The date of the notice of cancellation and the effective date of the termination of the bond shall be set as follows:

- The date of notice of cancellation shall be the date the notice is received by the Department of Agriculture.
- The effective date of termination of the bond can be no sooner than the date of notice plus the required notice period as established in the licensing act. The notice of cancellation shall not affect the liability accrued or which may accrue under such bond before the effective date of termination.

(Source: Amended at 22 Ill. Reg. 11698, effective JUN 25 1998)

SUBPART B: PROCEDURE FOR THE COLLECTION,
CONTROL AND DISTRIBUTION OF COLLATERAL CERTIFICATES-OF-DEPOSIT
AND-OTHER-SECURITY FILED IN LIEU OF A SURETY BOND WITH
THE DIRECTOR OF THE ILLINOIS DEPARTMENT
OF AGRICULTURE ACTING ON BEHALF OF CLAIMANTS

Section 3.80 Investigation and-Audit by Trustee

- When there is a failure of licensee/registrant for which collateral acceptable to the Department a--Certificate--of-Deposit--guarantee agreement-or-other--security has been pledged, the Trustee shall

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

conduct an investigation and audit to accumulate claims and documents as may be available to support claims against the collateral certificate of deposit--guarantee--agreement--or--pledged security. Within the first two weeks of its investigation, the Department of Agriculture shall place at least 3 notices in a newspaper in the business' licensed location informing persons with claims to submit them to the Department.

When a failure occurs, if--during--a--Department's--examination--or--inspection--the--examination--or--inspection--reveals--that--the--licensee/registrant--is--unable--to--meet--the--specific--financial--obligations--as--specified--in--the--licensing/registration--act--the Department of Agriculture shall give a written order of suspension in accordance with the provisions of the licensing/registration act.

(Source: Amended at 22 Ill. Reg. 1, effective,)

Section 1.90 Collateral Certificate of Deposit--Guarantee--Agreement--and--Other types of Pledged Security

Pursuant to the Acts listed in Section 40.23 of the Civil Administrative Code of Illinois and rules promulgated for the administration of such Acts, certain license holders or registrants are required to post a surety bond or are permitted to pledge collateral acceptable to the Department a certificate of deposit--or other security for the purpose of providing a fund to satisfy certain specific creditors in the event of a failure.

Other types of security--which--the--Department--of--Agriculture--will accept--include:

- 1) Guarantee--contract--prepared--in--accordance--with--the--Uniform Commercial Code--(Ill. Rev. Stat. 1983, ch. 26, pars. 1-10, et seq.)--and/or--mortgage--laws--(Ill. Rev. Stat. 1983, ch. 95, pars. 22b-51, et seq. and 23, et seq.) relative to the type of security being pledged;
- 2) Letters of Credit--shall be in accordance with Article V of the Uniform Commercial Code--(Ill. Rev. Stat. 1983, ch. 26, pars. 5-101, et seq.)--Letters of Credit--shall be executed in accordance with the format supplied by the Department;
- 3) Security agreements--which--conform--with--Article IX of the provisions of the Uniform Commercial Code--(Ill. Rev. Stat. 1983, ch. 26, pars. 9-101, et seq.);
- 4) Assignments of investment securities--which--conform--with--Article VIII of the provisions of the Uniform Commercial Code--(Ill. Rev. Stat. 1983, ch. 26, pars. 8-101, et seq.);
- 5) Real estate mortgage liens--which--conform--with--An Act in relation to mortgages and trust deeds--and--the--foreclosure--thereof--(Ill. Rev. Stat. 1983, ch. 95, par. 23, et seq.);
- 6) Collateral Certificates of Deposit--pledged security and guarantee

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

agreements shall be made payable to the Illinois Department of Agriculture, Director, as Trustee. The collateral certificate of deposit--pledged securities--or--guarantee--agreements shall be kept in the custody of the Director. Only Certificates of Deposit issued by financial institutions that are members of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation will be accepted by the Department as collateral security. Letters of Credit shall be in accordance with Article V of the Uniform Commercial Code (810 ILCS 5/Art. V). In the event the amount of the certificate of deposit exceeds the maximum amount insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation that amount exceeding the insured portion shall be secured with government treasury notes by the financial institution that issued the certificate of deposit. Notice of request for cancellation and return of the collateral certificate of deposit or pledged security--or--guarantee--agreement shall be sent by the licensee/registrant by certified mail to the Director, Illinois Department of Agriculture, P.O. Box 19281, Springfield, Illinois 62794-9281 62790-4906. The notice shall contain the name and address of the principal, the amount of the collateral certificate of deposit or account number or list of securities and reason for requesting the return of the collateral certificate of deposit or pledged securities--or--guarantee--agreement.

cd) In the event the amount of the collateral certificate of deposit pledged security--or--guarantee--agreement is changed, the licensee/registrant shall submit a new collateral acceptable certificate of deposit or pledged security or guarantee agreement to the Department. The date the new collateral certificate of deposit or pledged security or guarantee agreement is to be effective shall be set by the Department and any liability accruing under the prior collateral certificate of deposit or pledged security or guarantee agreement will be transferred to the new collateral certificate of deposit or pledged security or guarantee agreement. The effective date of the new collateral certificate of deposit or pledged security or guarantee agreement shall be set whereby there is no lapse of time that claimants are not protected by pledged security. The Department will release the original collateral certificate of deposit or guarantee agreement upon receipt of the new collateral certificate of deposit or guarantee agreement or will release the amount of pledged security requested to be returned or provided all statutory obligations of the licensing/registration act have been met.

de) The financial institution shall pay directly to the purchaser that amount of interest that will enable the Certificate of Deposit to be withdrawn at full face value at any time. In the event the business fails, the Trustee shall liquidate the Certificate of Deposit and any interest accrued will be paid to the Trustee. When the Trustee liquidates the Certificate of Deposit, the financial institution will be notified in writing of such action by certified or registered mail

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

or by personal demand by an authorized representative of the Department.

ef) In the event of a failure of any licensee or registrant and where the Department's investigation and-audit reveals claims against the collateral Certificate-of-Deposit,--pledged--security--and--guarantee agreements,--as-applicable, the Department of Agriculture shall liquidate the collateral Certificate-of-Deposit,--pledged--securities and/or--guarantee--agreements to the extent necessary to satisfy claimants. The Department shall establish and deposit funds received from a liquidated collateral Certificate-of-Deposit,--pledged securities--and/or--guarantee--agreements into an interest-bearing trust account in a federally insured financial institution until payment to claimants is made. The funds in a trust account shall be paid to claimants with valid claims by check written by the Department. An accounting of the funds which are deposited in the trust account shall be maintained by the Department on a separate accounting record for each trust account, identifiable as to the source of such funds, and any accrued interest shall be prorated among the identified funds in amounts equal to the same percentage as each identified fund is to the total trust account. Accrued interest from funds in a trust account shall be available for payment of valid claims. In determining the type of account in which to deposit trust funds, the Department shall consider interest rates, the anticipated period of time before payment to claimants with valid claims will be made, maturity dates and any other factors which could affect the maximization of funds for the benefit of claimants. Reports shall be made to the Comptroller of funds held in such accounts in accordance with the State Comptroller Act. When requested, the Trustee will provide a breakdown of how the trust account was distributed.

fg) In the event of a failure of a licensee/registrant and where the Department's investigation and-audit reveals no valid claims against the collateral Certificate-of-Deposit,--pledged--security--or--guarantee agreement, the procedure as set forth in Section 3.140 shall be followed.

(Source: Amended, at 22 Ill. Reg. 1.100, effective 10/1/93)

Section 3.100 Valid Claims

a) Claims to be valid against collateral a--Certificate-of-Deposit, guarantee--agreement--or--pledged--security held by the Trustee shall be defined as bona fide obligations covered by enabling statute and/or Section 40.23 of the Civil Administrative Code of Illinois which are filed by claimants or which are disclosed by the-audit--made--by the Illinois Department of Agriculture. Any claim to be a valid claim against collateral a--Certificate-of-Deposit,--guarantee--agreement--or pledged--security must be filed with the Department or disclosed by the

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

Illinois Department of Agriculture in-its-audit within the statute of claims limitation as established by the enabling statute, if one prevails, or the Mechanics Lien Act [770 ILCS 60] An-Act-relating-to contractors'-and-material-iffers-known-as-mechanics'-items' or 30 285 days from the date the business is closed, whichever is less. The closing date of a business shall be the date the-illinois--Department of-Agriculture-commences-any-audit-which-results-in-the-closing-of-the business-or-the-date the business failed,--whichever-occurs-first.

b) All claims determined as being valid claims by the Illinois Department of Agriculture shall be considered as valid claims for the purposes of filing a claim against the collateral Certificate-of-Deposit, guarantee--agreement--or--other--pledged--security.

(Source: Amended at 22 Ill. Reg. 1.100, effective 10/1/93)

Section 3.110 Hearing to Verify Claimants and Claim Amounts

The Trustee shall give at least a 10-day notice by registered or certified mail to the licensee/registrant posting the collateral Certificate-of-Deposit, guarantee--agreement--or--other--pledged--security, as well as to all known claimants advising them of the date, time and place of an administrative hearing. A hearing to receive claims not previously submitted to the Trustee and to verify claimants and their amount shall be held by the Trustee in accordance with 8 Ill. Adm. Code 3.60. Notice of the date, time and place of the hearing shall be published in the official State newspaper and once in a newspaper in the business' licensed location. The administrative law judge hearing-officer, in his/her findings, shall order that all, any portion or none of the collateral Certificate-of-Deposit,--guarantee--agreement--and/or--pledged--security be used by the Trustee for the payment of valid claims.

(Source: Amended at 22 Ill. Reg. 1.100, effective 10/1/93)

Section 3.120 Dispute of Claims by Licensee/Registrant

In the event that the licensee/registrant fails to object to any of the valid claims (8 Ill. Adm. Code 1.315), the Trustee shall distribute the trust under in accordance with 8 Ill. Adm. Code 3.130. The final administrative decision (see 8 Ill. Adm. Code 1.77(f) 1-75(f) and 1.124 1-94b) shall be subject to judicial review in accordance with the Article-III, Administrative Review act Code-of-Civil-Procedure [735 ILCS 5/Art. III].

(Source: Amended at 22 Ill. Reg. 1.100, effective 10/1/93)

Section 3.130 Release of Payment to Claimants

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

shall take whatever legal action as is necessary to secure such assets. The trustee shall conduct an investigation and audit to accumulate claims and documents as may be available to support claims against the assets of the licensee/registrant. During its investigation, the Department shall place at least three notices in a newspaper in the business licensed location informing persons with claims to submit them.

(Source: Repealed at 22 Ill. Reg. 1130, effective 5/13/83)

Section 3.190 Valid Claims (Repealed)

- a) Claims to be valid against a licensee or registrant's assets held by the trustee shall be defined as bona fide obligations covered by enabling statute and/or Section 48-23 of the Civil Administrative Code of Illinois which are filed by claimants or which are disclosed by the audit made by the Illinois Department of Agriculture. Any claim to be a valid claim against a licensee or registrant's assets must be filed or disclosed by the Illinois Department of Agriculture in its audit within the Statute of Claims limitation as established by the enabling statute if one prevails or an Act relating to contractors and material items known as mechanics liens or 285 days from the date the business is closed. The closing date of a business shall be the date the Illinois Department of Agriculture commences any audit, examination or inspection which results in the closing of the business or the date the business failed, whichever occurs first.
- b) All claims determined as being valid claims by the Illinois Department of Agriculture shall be considered as valid claims for the purposes of filing a claim against the licensee or registrant's assets.

(Source: Repealed at 22 Ill. Reg. 1133, effective 5/13/83)

Section 3.200 Hearing to Verify Claimants and Claim Amounts (Repealed)

The trustee shall give at least a 18-day notice by registered or certified mail to the licensee/registrant as well as to all known claimants, advising them of the date, time and place of the administrative hearing. A hearing to receive claims not previously submitted to the trustee and to verify claimants and their amounts shall be held by the trustee in accordance with 8 Ill. Adm. Code 3-69. Notice of the date, time and place of the hearing shall be published in the official State newspaper and at least once in a newspaper in the business licensed location.

(Source: Repealed at 22 Ill. Reg. 1134, effective 5/13/83)

Section 3.210 Dispute of Claims by Licensee/Registrant (Repealed)

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

No portion of the collateral Certificate of Deposit, guarantee agreement and/or pledged security shall be paid to claimants by the Director of the Illinois Department of Agriculture, as Trustee, until such time as 30 thirty-five (35) days have passed after a final administrative order without appeal or action on a rehearing before the administrative law judge hearing officer (8 Ill. Adm. Code 1.114 f-35). After a final administrative determination and payment to the claimants with valid claims is made, the Director of the Illinois Department of Agriculture shall return the net balance, if any, to the person pledging the collateral Certificate of Deposit, guarantee agreement or securities.

(Source: Amended at 22 Ill. Reg. 1135, effective 5/13/83)

Section 3.140 Return of Collateral Certificate of Deposit, Guarantee Agreement and/or Pledged Security When There Is No Business Failure

If a business ceases operation or if a guarantor's ownership in the business ceases, the collateral Certificate of Deposit, guarantee agreement and/or pledged securities shall be released to the licensee/registrant at the conclusion of the time period for filing claims (see 8 Ill. Adm. Code 3.100), provided an investigation by the Department of Agriculture reveals that no apparent statutory liability arose during the period of time the business was operating. Notification that the business has ceased and request for the release of the collateral Certificate of Deposit, guarantee agreement and/or pledged securities shall be delivered in writing to the Department at its Springfield office by the licensee/registrant. Within the first two weeks of its investigation, the Department shall place at least 3 notices in a newspaper in the business' licensed location informing persons with claims to submit them.

(Source: Amended at 22 Ill. Reg. 1136, effective 5/13/83)

SUBPART C: PROCEDURE FOR THE COLLECTION, CONTROL AND DISTRIBUTION OF GRAIN AND OTHER ASSETS RECEIVED BY THE DIRECTOR OF THE ILLINOIS DEPARTMENT OF AGRICULTURE ACTING AS TRUSTEE ON BEHALF OF THE CLAIMANTS

Section 3.180 Investigation and Audit by Trustee (Repealed)

When an audit reveals that the licensee/registrant is unable to meet the specific financial obligations as specified in the licensing/registration act, the Director of the Illinois Department of Agriculture as Trustee shall take possession of all of the licensee's or registrant's assets in the case of grain warehouses or grain dealers, this includes grain assets where the licensee/registrant does not voluntarily surrender his/her assets, the trustee

DEPARTMENT OF AGRICULTURE
NOTICE OF ADOPTED AMENDMENTS

Payment-of-valid-claims---in-determining-the-type-of-account-to deposit-trust-funds-the-Department-shall-consider-interest-rates-the anticipated-period-of-time-before-payment-to-claimants-with-valid claims-will-be-made-maturity-dates-and-any-other-factors-which-could affect-the-maximization-of-funds-for-the-benefit-of-claimants-Assets held-in-trust-and-covered-by-the-Civil-Administrative-Code-of-Illinois shall-be-used-for-the-benefit-of-claimants-as-designated-in-those-Acts listed-in-the-Authority-Note-and-with-respect-to-other-assets-not specifically-designated-to-a-particular-type-of-claim---Priority-of claims-and-equal-prorata-distribution-of-assets-shall-be-as-set-forth in-Section-40-23-of-the-Civil-Administrative-Code-of-Illinois#7
b) In-the-event-of-a-failure-of-any-licensee-or-registrant-other-than-a grain-warehouseman-or-grain-dealer-and/or-valid-claims-have-been presented-to-the-Department-the-Illinois-Department-of-Agriculture shall-liquidate-the-assets---The-Department-shall-establish-and deposit-funds-received-from-liquidated-assets-into-an-interest-bearing trust-account-in-a-federally-insured-financial-institution-until payment-to-claimants-is-made-The-funds-in-a-trust-account-shall-be paid-to-claimants-with-valid-claims-by-check-written-by-the Department-An-accounting-of-the-funds-which-are-deposited-in-the trust-account-shall-be-maintained-by-the-Department-of-Agriculture-on a-separate-accounting-record-for-each-trust-account-identifiable-as to-the-source-of-such-funds-and-any-acrued-interest-shall-be prorated-among-the-identified-funds-in-amounts-equal-to-the-same percentage-as-each-identified-fund-is-to-the-total-trust-account-Accrued-interest-from-funds-in-a-trust-account-shall-be-available-for payment-of-valid-claims---in-determining-the-type-of-account-to deposit-trust-funds-the-Department-shall-consider-interest-rates-the anticipated-period-of-time-before-payment-to-claimants-with-valid claims-will-be-made-maturity-dates-and-any-other-factors-which-could affect-the-maximization-of-funds-for-the-benefit-of-claimants- Reports-shall-be-made-by-the-Department-to-the-Comptroller-of-funds held-in-such-accounts-in-accordance-with-the-State-Comptroller-Act#7

(Source: Repealed at 22 Ill. Reg. 11712, effective 11/12/98)

DEPARTMENT OF AGRICULTURE
NOTICE OF ADOPTED AMENDMENTS

The-hearing-officer-in-his/her-findings-shall-order-that-all-any-portion-or none-of-the-assets-held-in-trust-be-used-by-the-trustee/registrant-fails-to-object paying-valid-claims-In-the-event-that-the-licensee/registrant-fails-to-object to-any-of-the-valid-claims-(8-III-Adm-Code-1-3157)-the-Director-of-the Illinois-Department-of-Agriculture-as-trustee-shall-disburse-the-assets-in accordance-with-8-III-Adm-Code-3-220-The-final-administrative-decision-(see 8-III-Adm-Code-1-754k)-and-1-348)-shall-be-subject-to-judicial-review-in accordance-with-Article-III-Administrative-Review-Code-of-Civil-Procedure- (Source: Repealed at 22 Ill. Reg. 11711, effective 11/11/98)

Section 3.220 Release of Assets to Claimants (Repealed)

No-portion-of-the-licensee's-or-registrant's-assets-shall-be-paid-to-claimants by-the-Director-of-the-Illinois-Department-of-Agriculture-as-trustee-until such-time-as-thirty-five-(35)-days-has-passed-after-a-final-administrative decision-When-requested-the-trustee-will-provide-a-breakdown-on-how-the-trust amount-was-distributed-After-payment-of-valid-claims-is-made-the-Director-of the-Illinois-Department-of-Agriculture-shall-return-the-net-balance-if-any-of the-licensee's-or-registrant's-assets-which-were-held-in-trust-to-the-person pledging-the-security

(Source: Repealed at 22 Ill. Reg. 11711, effective 11/11/98)

Section 3.230 Disposition of Assets; Trust Accounts (Repealed)

a) If-the-failure-is-a-grain-warehouseman-or-a-grain-dealer's-all-grain assets-shall-be-placed-in-trust-by-the-Director-of-the-Illinois Department-of-Agriculture-The-Department-shall-convert-the-amount-of grain-assets-and/or-pledged-securities-as-necessary-to-cover outstanding-obligations-to-cash-through-the-sale-of-such-assets- Grain-assets-and/or-pledged-security-not-converted-to-cash-shall-be held-in-trust-until-outstanding-obligations-have-been-paid-and-then returned-to-the-person-pledging-the-security-and/or-grain-assets-in accordance-with-8-III-Adm-Code-3-220-The-Department-shall establish-and-deposit-funds-received-from-liquidated-assets-into-an interest-bearing-trust-account-in-a-federally-insured-financial institution-until-payment-to-claimants-is-made-the-funds-in-a-trust account-shall-be-paid-to-claimants-with-valid-claims-by-check-written by-the-Department-An-accounting-of-funds-which-are-deposited-in-the trust-account-shall-be-maintained-by-the-Department-of-Agriculture-on a-separate-accounting-record-for-each-trust-account-identifiable-as to-the-source-of-such-funds-and-any-acrued-interest-shall-be prorated-among-the-identified-funds-in-amounts-equal-to-the-same percentage-as-each-identified-fund-is-to-the-total-trust-account-Accrued-interest-from-funds-in-a-trust-account-shall-be-available-for

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: The Travel Regulation Council
- 2) Code Citation: 80 Ill. Adm. Code 3000
- 3) Section Numbers:

3000.220	<u>Adopted Action:</u>
3000.300	Amend
3000.400	Amend
3000.Appendix A	Amend
- 4) Statutory Authority: Implementing and authorized by Sections 12, 12-2 and 12-3 of the State Finance Act [30 ILCS 105/12, 12-2 and 12-3].
- 5) Effective Date of Amendments: July 1, 1998
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? Yes
- 8) Date Filed in Agency's Principal Office: June 29, 1998
- 9) Date Notice of Proposal Published in Illinois Register: March 13, 1998, 22 Ill. Reg. 4550
- 10) Has JCAR issued a Statement of Objections to the Amendments? No
- 11) Differences between proposal and final version: Several minor editing changes were made. Incorporations by reference language was added to Section 3000.400(b) and Section 3000.300(g)(2).
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace an emergency amendment currently in effect?
No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The change to Section 3000.400 and the companion change to 3000.Appendix A will increase the maximum reimbursement rate for lodging in Cook County to the rate established by the federal government. Also, incorporations by reference language was added to Sections 3000.400 and 3000.300.
- 16) Information and questions regarding this adopted amendment shall be directed to:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Stephen W. Seiple
720 Stratton Office Building
Springfield, IL 62706
(217)782-9669
TDD (217)785-3979

The full text of the Adopted Amendments begin on the next page.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYERS

SUBTITLE I: GENERAL TRAVEL CONTROL

CHAPTER IV: TRAVEL REGULATION COUNCIL

PART 3000

THE TRAVEL REGULATION COUNCIL

SUBPART A: GENERAL

Section
3000.100
3000.110
3000.120
3000.130
3000.140

Authority
Philosophy
Policy
Scope and Interpretation
Definitions

SUBPART B: TRAVEL CONTROL SYSTEM

Section
3000.200
3000.210
3000.220
3000.230

Travel Control System
Designation of Headquarters
Expenses at Headquarters or Residence
Preparation and Submission of Vouchers or Travel Expenses

SUBPART C: TRANSPORTATION

Section
3000.300
3000.310

Modes of Transportation
Routing

SUBPART D: LODGING

Section
3000.400
3000.410
3000.420
3000.430

Lodging Allowances
Least Costly Lodging
Conference Lodging
Employee Owned or Controlled Housing

SUBPART E: PER DIEM-MEALS

Section
3000.500
3000.510

Per Diem Allowance
Meal Allowance

SUBPART F: MISCELLANEOUS RULES

Section
3000.600

Reimbursable and Non-Reimbursable Expenses

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

3000.610 Expenses Related to Transportation
3000.620 Receipts Required
3000.630 Meals for Other Persons

SUBPART G: EXCEPTIONS

Section
3000.700
3000.710
3000.720

Exceptions to the Rules
Board-Agency Rules
Non-Required Travel

APPENDIX A Reimbursement Schedule

AUTHORITY: Implementing and authorized by Sections 12, 12-2 and 12-3 of the State Finance Act [30 ILCS 105/12, 12-2 and 12-3].

SOURCE: Emergency rules adopted at 10 Ill. Reg. 12697, effective July 2, 1986, for a maximum of 150 days; adopted at 10 Ill. Reg. 18188, effective January 1, 1987; peremptory amendment at 11 Ill. Reg. 14854, effective August 25, 1987; amended at 12 Ill. Reg. 11626, effective July 1, 1988; amended at 14 Ill. Reg. 10014, effective July 1, 1990; amended at 19 Ill. Reg. 7852, effective July 1, 1995; amended at 20 Ill. Reg. 7372, effective May 13, 1996; amended at 20 Ill. Reg. 9025, effective July 1, 1996; amended at 21 Ill. Reg. 8899, effective July 1, 1997; amended at 22 Ill. Reg. 11973, effective July 1, 1999.

SUBPART B: TRAVEL CONTROL SYSTEM

Section 3000.220 Expenses at Headquarters or Residence

- a) As a condition of employment, employees expect to incur commuting expenses between their residence and headquarters. These expenses are not reimbursable. Meals, lodging and per diem are not reimbursable at headquarters or at residence. Expenses associated with State business in excess of commuting expenses are reimbursable at headquarters and/or residence. An employee whose travel does not include travel through headquarters shall be reimbursed for all mileage. An employee whose travel does include travel through headquarters shall be reimbursed for all mileage in excess of commuting mileage. All travel must be by the most direct route.
- b) "Travel through headquarters" is defined as:
Any travel to or through the corporate city limits of the employee's designated headquarters, regardless of whether the employee made a stop at the work site or changed vehicles or modes of transportation. Examples of reimbursable mileage expenses are as follows:
- c) 1) Residence/Lincoln -- Headquarters/Springfield. Employee drives from residence in Lincoln to Chicago and returns to residence. Reimbursement is for all mileage because the travel was not to or

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- through headquarters.
- 2) Residence/Lincoln -- Headquarters/Springfield. Employee drives from residence in Lincoln to Collinsville and back to residence. Reimbursement is for all mileage in excess of commuting mileage. The travel, by the most direct route, was through headquarters.
 - 3) Residence/Carbondale -- Headquarters/Marion. Employee drives from residence to headquarters. Later, employee drives from headquarters to Anna and back to residence. Reimbursement is for all mileage in excess of commuting mileage.
 - 4) Residence/Evanston -- Headquarters/JRTC, Chicago. Employee drives from residence to McCormick Place for an event. After the event, the employee drives to headquarters, then to residence. Reimbursement is for all mileage in excess of commuting mileage because the travel was through headquarters.
 - 5) Residence/Chicago -- Headquarters/JRTC, Chicago. Employee normally commutes to work by train. However, in order to attend a meeting at another location, the employee drives from residence to headquarters, then to the meeting location, then returns to headquarters and back to residence. Reimbursement is for all mileage in excess of commuting mileage. The fact that the employee normally rides the train to work has no effect on determining reimbursement.
- d) Agencies are responsible for monitoring claims under this Section.

(Source: Amended at 22 Ill. Reg. 11717, effective July 1, 1998)

SUBPART C: TRANSPORTATION

Section 3000.300 Modes of Transportation

- a) All travel shall be by the most economical mode of transportation available considering travel time, costs, and work requirements. Modes of transportation authorized for official travel include automobiles, railroads, airlines, buses, taxicabs, and other usual means of conveyance.
- b) State vehicles may be used when most economical. When applicable, Vehicle Rules (44 Ill. Adm. Code 5040) issued by the Department of Central Management Services shall govern use of State-owned vehicles. Agency rules further defining use of vehicles may also apply. Specific instructions covering service and repairs of these vehicles are to be found in the glove compartment of each vehicle.
- c) Arrangements on airplanes, trains, or boats shall be the least costly reasonably available alternative.
- d) Chartered aircraft, boats, trains, buses, or other such conveyance, shall be used only as a last resort or if proven to be most economical for the circumstances. A full explanation for the use of such transportation must accompany the voucher.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- e) The rental of an automobile while on travel status is allowed, if circumstances require. The most economical vehicle available that is suitable for the State's business shall be obtained. The collision damage waiver and personal accident insurance on rented vehicles are not reimbursable.
- f) Privately owned vehicles may be used when authorized by appropriate agency personnel.
 - 1) Employees using private vehicles on State business must have insurance coverage in an amount not less than that required by Section 10-101(b) of the Illinois Vehicle Code [625 ILCS 5/10-101(b)]. Prior to such authorization the Agency Head shall require employees to file a statement certifying that they are duly licensed and carry at least the minimum insurance coverage or shall require such certification to be noted on the travel voucher.
 - 2) Reimbursement for use of a private vehicle shall be on a mileage basis and shall be in accordance with the rate promulgated pursuant to 5 U.S.C. 5707(b)(2) and is shown in Appendix A, Reimbursement Schedule. However, in the event the rate set under federal regulations changes during the course of the State's fiscal year, the effective date of the new rate shall be the July 1 immediately following the change in the federal rate.
- g) Agency Heads may authorize the use of privately owned aircraft on State business.
 - 1) Employees using privately owned aircraft on State business shall be duly licensed by the appropriate licensing body for the particular aircraft to be flown, shall carry insurance in at least the amount of \$500,000 combined single limit, and shall certify this to the Agency Head. Such certification shall be available for review and shall be noted on the travel voucher.
 - 2) Reimbursement for the use of privately owned aircraft may be set by the individual Boards, but shall not exceed the rate set by the Federal Government pursuant to 5 U.S.C. 5707(b)(2) and 41 CFR 301-4.2(a)(2), as revised (May 23, 1996, Federal Register, Vol. 61 #101, Government Printing Office). No later amendments or editions shall act to vary this rate.

(Source: Amended at 22 Ill. Reg. 11718, effective July 1, 1998)

SUBPART D: LODGING

Section 3000.400 Lodging Allowances

- a) The lodging allowances specified in Appendix A, Reimbursement Schedule are the maximum rates allowed by the Travel Control Boards. The Council shall review the rates annually to determine necessary adjustments. Except as provided in Section 3000.430, only commercial

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 3000 APPENDIX A Reimbursement Schedule

The following rates are effective for the Travel Control Boards. The rates will be reviewed annually to determine necessary adjustments.

Type of Reimbursement Rate

Mileage See Section 3000.300(f)(2)
Auto See Section 3000.300(g)(2) \$8-48
Plane

Per Diem/Meals

Within the State of Illinois

Breakfast \$5.50
Lunch \$5.50
Dinner \$17.00
Per Diem -- Quarter \$7.00
Per Diem -- Day \$28.00

Outside the State of Illinois

Breakfast \$6.50
Lunch \$6.50
Dinner \$19.00
Per Diem -- Quarter \$8.00
Per Diem -- Day \$32.00

Lodging

Chicago Metro

County of Cook See Section 3000.400(b)
Counties of Cook, Dupage, Kane,
Lake, McHenry, Will \$80.00

Downstate

Counties of Champaign, Kankakee,
LaSalle, McLean, Macon, Madison
Peoria, St. Clair, Sangamon,
Tazewell, and Winnebago \$60.00

All other downstate counties \$50.00

Out-of-State \$110.00

Out-of-Country Actual Reasonable

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

lodging may be reimbursed.

b) The maximum reimbursement for lodging in Cook County, Illinois shall be in accordance with the rate promulgated pursuant to 5 U.S.C. 5701-5709 and 41 CFR 301, Appendix A, 1997, as revised (Dec. 2, 1997, Federal Register, Vol. 62 #231, Government Printing Office). No later amendments or editions shall act to vary this rate.

(Source: Amended at 22 Ill. Reg. 11719, effective JUL 11 1998)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 22 Ill. Reg. _____, effective _____)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Uniform System of Accounts for Sewer Utilities
- 2) Code Citation: 83 Ill. Adm. Code 650
- 3) Section Numbers: Adopted Action:
650.10 Amendment
650.100 Amendment
650.115 Amendment
650.120 Amendment
650.133 New Section
650.140 Amendment
650.165 Amendment
650.170 Amendment
650.175 Amendment
650.180 Amendment
650.185 Amendment
650.1030 Amendment
650.1080 Repeal
650.3330 Repeal
650.Table A Amendment
650.Table B Amendment
- 4) Statutory Authority: Implementing Section 5-102 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/5-102 and 10-101].
- 5) Effective Date of Amendments: July 1, 1998
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? Yes
- 8) Date Filed in Agency's Principal Office: June 17, 1998
- 9) Notice of Proposal Published in Illinois Register: January 2, 1998 at 22 Ill. Reg. 1
- 10) Has JCAR issued a Statement of Objections to these amendments? No
- 11) Difference(s) between proposal and final version: Section 650.100: In item E, change "term" to "terms".
Section 650.140: Change "should" to "shall".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace emergency amendments currently in effect?
No

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: The Commission has adopted 83 Ill. Adm. Code 650, "Uniform System of Accounts for Sewer Utilities", as its system of accounts for those sewer utilities under its jurisdiction. Part 650 incorporates by reference the Uniform System of Accounts (USOA) for Class A Sewer Utilities of the National Association of Regulatory Utility Commissioners (NARUC) with certain specified additions and deletions. The purpose in amending Part 650 is to adopt the 1996 NARUC USOA which will make the Uniform System of Accounts for Sewer Utilities available in an electronic format, to make one additional deviation from the NARUC USOA, and to make housekeeping changes.

16) Information and questions regarding these adopted amendments shall be directed to:

Conrad S. Rubinkowski
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
P.O. Box 19280
Springfield, IL 62794-9280
(217)785-3922

The full text of the Adopted Amendments begins on the next page:

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER e: WATER UTILITIES

PART 650

UNIFORM SYSTEM OF ACCOUNTS FOR SEWER UTILITIES

SUBPART A: ADOPTION OF UNIFORM SYSTEM OF ACCOUNTS BY REFERENCE

Section
650.10 Adoption of Uniform System of Accounts by Reference

SUBPART B: ADDITIONS TO AND DELETIONS FROM NARUC
UNIFORM SYSTEM OF ACCOUNTS

Section	Accounting Instruction 1
650.100	Accounting Instruction 2
650.105	Accounting Instruction 13
650.110	Accounting Instruction 18
650.115	Accounting Instruction 19
650.120	Accounting Instruction 21
650.125	Accounting Instruction 22
650.130	Accounting Instruction 26
650.133	Accounting Instruction 29
650.135	Accounting Instruction 30
650.140	Accounting Instruction 33
650.150	Accounting Instruction 34
650.155	Accounting Instruction - Example
650.160	Accounting Instruction 37
650.165	Accounting Instruction 40 38
650.170	Accounting Instruction 39
650.175	Plant Account Matrix
650.180	Expense Accounts Matrix
650.185	Retirement Units Generally
650.200	General Instructions with Respect to Structures and Equipment
650.204	Retirement Unit Instructions
650.205	List of General Retirement Units
650.206	Variances
650.210	Retirement Unit Account 351 Organization
650.351	Retirement Unit Account 352 Franchises
650.352	Retirement Unit Account 353 Land and Land Rights
650.353	Retirement Unit Account 354 Structures and Improvements
650.354	Retirement Unit Account 360 Collection Sewers - Force
650.360	Retirement Unit Account 361 Collection Sewers - Gravity
650.361	Retirement Unit Account 362 Special Collecting Structures
650.362	Retirement Unit Account 363 Service to Customers
650.363	Retirement Unit Account 364 Flow Measuring Devices
650.364	

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTS

Association of Regulatory Utility Commissioners ("NARUC") as its uniform system of accounts for sewer utilities, subject to the exceptions set forth in Subpart B of this Part. No incorporation in this Part incorporates any later amendment or edition.

(Source: Amended at 22 Ill. Reg. 11726, effective JUL 1 1993)

SUBPART B: ADDITIONS TO AND DELETIONS FROM NARUC
UNIFORM SYSTEM OF ACCOUNTS

Section 650.100 Accounting Instruction 1

Accounting Instruction 1, "General - Classification of Utilities," is deleted and replaced by the following:

"A. For the purpose of applying the system of accounts prescribed by the Commission, sewer utilities are divided into two classes, as follows:

Class A - Utilities having annual sewer operating revenues of \$1,000,000 or more.
Class B - Utilities having annual sewer operating revenues of less than \$1,000,000.

B. This system of accounts applies to Class A utilities. Class B utilities shall keep all the accounts of this system of accounts applicable to their affairs. Class B utilities may, however, keep accounts for operating revenues and operating expenses under the accounts of the condensed classifications provided by this Part. (See Accounting Instruction 40 98.)

C. The class to which any utility belongs shall originally be determined by the average of its annual sewer operating revenue for the last three consecutive years. Subsequent changes in classification shall be made when the annual sewer operating revenues for each of the three immediately preceding years shall exceed \$1,000,000 on a stand alone basis of the annual water and sewer operating revenues.

D. Class B utilities desiring more detailed accounting may adopt the accounts prescribed for Class A utilities. Class B utilities are not required to comply with more detailed accounts than what otherwise may be either case."

E. The terms "wastewater" and "sewer" refer to the same utility service and can be used interchangeably within this system of accounts."

(Source: Amended at 22 Ill. Reg. 11726, effective JUL 1 1993)

Section 650.115 Accounting Instruction 18

a) in paragraph A--of Accounting Instruction 18, "Utility Plant--to be Recorded as Cost--the phrase--"See--Accounting--Instruction--284--is replaced by--"See--Definition--9--"

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTS

650.365 Retirement Unit Account 365 Flow Measuring Installation
650.370 Retirement Unit Account 370 Receiving Wells
650.371 Retirement Unit Account 371 Pumping Equipment
650.380 Retirement Unit Account 380 Treatment and Disposal Equipment
650.381 Retirement Unit Account 381 Plant Sewers
650.382 Retirement Unit Account 382 Outfall Sewer Lines
650.389 Retirement Unit Account 389 Other Plant and Miscellaneous Equipment
650.390 Retirement Unit Account 390 Office Furniture and Equipment
650.391 Retirement Unit Account 391 Transportation Equipment
650.392 Retirement Unit Account 392 Store Equipment
650.393 Retirement Unit Account 393 Tools, Shop and Garage Equipment
650.394 Retirement Unit Account 394 Laboratory Equipment
650.395 Retirement Unit Account 395 Power Operated Equipment
650.396 Retirement Unit Account 396 Communication Equipment
650.397 Retirement Unit Account 397 Miscellaneous Equipment
650.398 Retirement Unit Account 398 Other Tangible Property
650.1030 Account 103
650.1080 Account 108 (Repealed)
650.1081 Account 108.1
650.1240 Account 124
650.1410 Account 141
650.2150 Account 215
650.2180 Account 218
650.2710 Account 271
650.2720 Account 272
650.2830 Account 283 (Repealed)
650.3330 Account 333
650.4030 Account 403
650.4120 Account 412
650.4200 Account 420
650.4330 Account 433
650.4340 Account 434
650.7600 Account 760
TABLE A Prescribed Plant Account Matrix
TABLE B Prescribed Expenses Accounts Matrix

AUTHORITY: Implementing Section 5-102 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/5-102 and 10-101].

SOURCE: Adopted at 11 Ill. Reg. 8994, effective May 1, 1987; amended at 22 Ill. Reg. 11725, effective JUL 1 1993.

SUBPART A: ADOPTION OF UNIFORM SYSTEM OF ACCOUNTS BY REFERENCE

Section 650.10 Adoption of Uniform System of Accounts by Reference

The Illinois Commerce Commission ("Commission") adopts the Uniform System of Accounts for Class A Wastewater Sewer Utilities [1996] (1984) of the National

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

b) In paragraph D of Accounting Instruction 18, the clause "For contributed utility plant, the accumulated depreciation or amortization account shall be charged" is replaced by "For contributed utility plant, the accumulated depreciation or amortization account shall be credited."

(Source: Amended at 22 Ill. Reg. 11727, effective 01/01/98)

Section 650.120 Accounting Instruction 19

a) The Note in Item 3 of Accounting Instruction 19, Utility Plant - Components of Construction Cost, is revised to state:

"Note: -- The cost of individual items of equipment of small value or of short life, including portable tools and implements, shall not be charged to utility plant accounts unless the correctness of the accounting therefor is verified by current inventories. The cost shall be charged to the appropriate operating expense or clearing accounts, according to the use of such items, or, if such items are consumed directly in construction work, the cost shall be included as part of the cost of the construction unit."

b) In Accounting Instruction 19, "Utility Plant - Components of Construction Cost," Item 17 is deleted (except for the note) and replaced with the following:

"Allowance for funds used during construction" ('AFUDC') includes the net cost for the period of construction of borrowed funds used for construction purposes and a reasonable rate on other funds when so used, not to exceed allowances computed in accordance with the formula prescribed in paragraph (a). No AFUDC charges shall be included in these accounts upon expenditures for construction projects that have been abandoned.

1) The formula and elements for the computation of AFUDC shall be:

$$A(i) = s(S/W) + d(D/(D+P+C))(1-S/W)$$

$$A(e) = [1-S/W][p(P/(P+P+C)) + c(C/(D+P+C))]$$

A(i) = Gross allowance for borrowed funds used during construction rate

A(e) = Allowance for other funds used during construction rate

S = Average short term debt

s = Short-term debt interest rate

D = Long-term debt

d = Long-term debt interest rate

P = Preferred stock

p = Preferred stock cost rate

C = Common equity

c = Common equity cost rate

W = Average balance in construction work in progress

2) The rates shall be determined annually except that the rates may be adjusted for current year security issues which affect the weighted average of long-term debt and/or preferred stock or when

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

the return on equity awarded a current rate case exceeds the computational return on equity. The balances for long-term debt, preferred stock, and common equity shall be the actual book balances as of the end of the prior year. The cost rates for long-term debt and preferred stock shall be the weighted average cost. The cost rate for common equity shall be the rate granted common equity in the last rate proceeding before the Commission. If such cost rate is not available, the average rate actually earned during the preceding three years shall be used. The short-term debt balances and related cost and the average balance for construction work in progress shall be estimated for the current year with appropriate adjustments as actual data become available."

(Source: Amended at 22 Ill. Reg. 11728, effective 01/01/98)

Section 650.133 Accounting Instruction 26

Paragraph B of Accounting Instruction 26 is modified to state as follows:

"Exclude from equipment accounts hand and other portable tools, which are likely to be lost or stolen or which have a relatively small value or short life, unless the correctness of the accounting therefor as utility plant is verified by current inventories. Special tools acquired and included in the purchase price of equipment shall be included in the appropriate plant account. Portable drills and similar tool equipment when used in connection with the operation and maintenance of a particular plant or department, such as pumping, transmission and distribution, etc., or in "stores", shall be charged to the plant account appropriate for their use."

(Source: Added at 22 Ill. Reg. 11728, effective 01/01/98)

Section 650.140 Accounting Instruction 30

Paragraph C of Accounting Instruction 30, "Utility Plant - Common Plant," shall be restated as follows: ~~delete~~ "(351-to-399)" ~~and replace with~~ "(351-to-399)".

"The utility shall be prepared to show at any time by utility plant accounts (351 to 398) the following:

- the book cost of common utility plant,
- the allocation of such cost to the respective departments using the common utility plant, and
- the basis of the allocation."

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTS

- Credit, Utility Operating Income
Investment Tax Credits
Future Periods, Utility Operations
Investment Tax Credits Restored to
Operating Income, Utility Operations
Income From Utility Plant Leased
to Others
Gains (Losses) From Disposition of
Utility Property
2) Other Income and Deductions
Revenues from Merchandising, Jobbing
and Contract Work
Costs and Expenses of Merchandising,
Jobbing and Contract Work
Interest and Dividend Income
Allowance for Funds Used During
Construction
412 Nonutility Income
412.10 Miscellaneous Nonutility Expenses
412.11 Taxes Applicable to Other Income and Deductions
413 Taxes Other Than Income
414 Taxes Other Than Income, Other
Income and Deductions
415 Income Taxes
416 Income Taxes, Other Income and
Deductions
417 Provision for Deferred Income Taxes
418 Provision for Deferred Income Taxes
Other Income and Deductions
419 Provision for Deferred Income Taxes
-Credit
420 Provision for Deferred Income Taxes
- Credit, Other Income and
Deductions
421 Investment Tax Credits
422 Investment Tax Credits - Net,
Nonutility Operations
423 Investment Tax Credits Restored to
Nonoperating Income, Utility
Operations
4) Interest Expense
427 Interest Expense
427.1 Interest on Debt to Affiliated
Interests
427.2 Interest on Short-Term Debt
427.3 Interest on Long-Term Debt
427.4 Interest on Customer Deposits

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 22 Ill. Reg. 11-2-8, effective

Section 650.165 Accounting Instruction 37

From Paragraph A of Accounting Instruction 37, "Operating Income-Operation and
Maintenance Expense Account Matrix," delete "and B" in the first sentence and
"(page 138)" in the second sentence.

(Source: Amended at 22 Ill. Reg. 11-2-8, effective

Section 650.170 Accounting Instruction 40 38

a) Class A Utilities shall maintain the accounts listed in subsections
(a)(1) through (a)(8) of this Section.

- 1) Utility Operating Accounts
Account No.
400 Operating Revenues
401 Operating Expenses
403 Depreciation Expenses
406 Amortization of Utility Plant
Acquisition Adjustments
407 Amortization Expense
407.1 Amortization of Limited Term Plant
407.2 Amortization of Property Losses
407.3 Amortization of Other Utility Plant
407.4 Amortization of Regulatory Assets
407.5 Amortization of Regulatory Liabilities
408 Taxes Other Than Income
408.10 Utility Regulatory Assessment Fees
408.11 Property Taxes
408.12 Payroll Taxes
408.13 Other Taxes and Licenses
409 Income Taxes
409.10 Federal Income Taxes, Utility
Operating Income
409.11 State Income Taxes, Utility
Operating Income
409.12 Local Income Taxes, Utility
Operating Income
410 Provision for Deferred Income Taxes
410.10 Deferred Federal Income Taxes
410.11 Deferred State Income Taxes
410.12 Deferred Local Income Taxes
411 Provision for Deferred Income Taxes
- Credit
411.10 Provision for Deferred Income Taxes

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

427.5	Interest - Other
428	Amortization of Debt Discount and Expense
429	Amortization of Premium on Debt
5) Extraordinary Items	
433	Extraordinary Income
434	Extraordinary Deductions <u>Reduction</u>
409.30	Income Taxes, Extraordinary Items
6) Retained Earnings Accounts	
435	Balance Transferred From Income
436	Appropriations of Retained Earnings
437	Dividends Declared - Preferred Stock
438	Dividends Declared - Common Stock
439	Adjustments to Retained Earnings
7) Sewer Operation Revenue Accounts	
A) Sewer Revenues	
521	Flat Rate Revenues---General
	Customer
521.1	Residential Revenues
521.2	Commercial Revenues
521.3	Industrial Revenues
521.4	Revenue from Public Authorities
521.5	Multiple Family Dwelling Revenues
521.6	Other Revenues
522	Measured Revenues---General
	Customers
522.1	Residential Revenues
522.2	Commercial Revenues
522.3	Industrial Revenues
522.4	Revenues from Public Authorities
522.5	Multiple Family Dwelling Revenues
523	Revenues from Public Authorities
524	Revenues from Other Systems
525	Interdepartmental Revenues
B) Other Sewer Revenues	
530	Guaranteed Revenues
531	Sale of Sludge
532	Forfeited Discounts
534	Rents from Sewer Property
535	Interdepartmental Rents
536	Other Sewer Revenues
C) Reclaimed Water Sales	
540	Flat Rate Reuse Revenues
540.1	Residential Reuse Revenues

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

540.2	Commercial Reuse Revenues
540.3	Industrial Reuse Revenues
540.4	Reuse Revenues from Public Authorities
540.5	Other Revenues
541	Measured Reuse Revenues
541.1	Residential Reuse Revenues
541.2	Commercial Reuse Revenues
541.3	Industrial Reuse Revenues
541.4	Reuse Revenues from Public Utilities
544	Reuse Revenues from Other Systems
8) Sewer Operation and Maintenance Expense Accounts	
701	Salaries and wages - Employees
703	Salaries and wages - Officers, Directors and Majority Stockholders
704	Employee Pensions and Benefits
710	Purchased Sewage Treatment
711	Sludge Removal Expense
715	Purchased Power
716	Fuel for Power Production
718	Chemicals
720	Materials and Supplies
731	Contractual Services - Engineering
732	Contractual Services - Accounting
733	Contractual Services - Legal
734	Contractual Services - Management Fees
735	Contractual Services - Testing Other
736	Contractual Services - Other
741	Rental of Building/Real Property
742	Rental of Equipment
750	Transportation Expense
752	Rental-of-Equipment
756	Insurance - Vehicle
757	Insurance - General Liability
758	Insurance - Workman's Compensation
759	Insurance - Other
760	Advertising Expense
766	Regulatory Commission Expenses - Amortization of Rate Case Expense
767	Regulatory Commission Expenses - Other
770	Bad Debt - Expense
775	Miscellaneous Expenses
b) Class B utilities shall maintain the accounts listed in subsections (b)(1) through (b)(8) of this Section.	
1) Utility Operating Accounts	
Account No.	
400	Operating Revenues

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTS

- 401 Operating Expenses
403 Depreciation Expenses
406 Amortization of Utility Plant
Acquisition Adjustments
407 Amortization Expense
407.1 Amortization of Limited Term Plant
407.2 Amortization of Property Losses
407.3 Amortization of Other Utility Plant
407.4 Amortization of Regulatory Assets
407.5 Amortization of Regulatory Liabilities
408 Taxes Other Than Income
409 Income Taxes
410 Provision for Deferred Income Taxes
411 Provision for Deferred Income Taxes
- Credit
412 Investment Tax Credits
413 Income From Utility Plant Leased to Others
414 Gains (Losses) From Disposition of Utility Property
2) Other Income and Deductions
415 Revenues from Merchandising, Jobbing and Contract Work
416 Costs and Expenses of Merchandising, Jobbing and Contract Work
419 Interest and Dividend Income
420 Allowance for Funds Used During Construction
421 Nonutility Income
426 Miscellaneous Nonutility Expenses
3) Taxes Applicable to Other Income and Deductions
408 Taxes Other Than Income
409 Income Taxes
410 Provision for Deferred Income Taxes
411 Provision for Deferred Income Taxes
- Credit
412 Investment Tax Credits
4) Interest Expense
427 Interest Expense
428 Amortization of Debt Discount and Expense
429 Amortization of Premium on Debt
5) Extraordinary Items
433 Extraordinary Income
434 Extraordinary Deduction
409.30 Income Taxes, Extraordinary Items
6) Retained Earnings Accounts
435 Balance Transferred From Income

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTS

- 436 Appropriations of Retained Earnings
437 Dividends Declared - Preferred Stock
438 Dividends Declared - Common Stock
439 Adjustments to Retained Earnings
7) Sewer Operation Revenue Accounts
A) Sewer Revenue
521 Flat Rate Revenue - General Customers
522 Measured Revenues - General Customers
523 Revenues from Public Authorities
524 Revenues from Other Systems
525 Interdepartmental Revenues
B) Other Sewer Revenues
530 Guaranteed Revenues
531 Sale of Sludge
532 Forfeited Discounts
534 Rents from Sewer Property
535 Interdepartmental Rents
536 Other Sewer Revenues
C) Reclaimed Water Sales
540 Flat Rate Reuse Revenues
541 Measured Reuse Revenues
544 Reuse Revenues from Other Systems
8) Sewer Operation and Maintenance Expense Accounts
701 Salaries and Wages
704 Employee Pensions and Benefits
710 Purchased Sewage Treatment
711 Sludge Removal Expense
715 Purchased Power
716 Fuel for Power Production
718 Chemicals
720 Materials and Supplies
731 Contractual Services
741 Rental of Building/Real Property
742 Rental of Equipment
750 Transportation Expense
756 Insurance
760 Advertising Expense
766 Regulatory Commission Expense
770 Bad Debt Expense
775 Miscellaneous Expenses

(Source: Amended at 22 Ill. Reg. 11733) effective 1-1-83

Section 650.175 Accounting Instruction 39

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Add the following material as Accounting Instruction 39, "Transition Rules - Contribution in Aid of Construction":

"A. The transition rules are to govern the accounting for Contributions in Aid of Construction. They are based on the premise that the integrity of the 'Contribution' account was preserved during the period encompassed by the Commission's ratemaking policy of allowance of depreciation expense as a recoverable operation expense on property which was the contra to the 'Contribution' account".

B. The rules provide for recording the impairment of the 'Contribution' account which occurred subsequent to the change in Commission policy of disallowance of depreciation expense on 'contributed property' for ratemaking purposes.

1. Subsidiary records will be maintained for Account 271, 'Contributions in Aid of Construction' and Account 272, 'Accumulated Amortization of Contributions in Aid of Construction.'

Subsidiary accounts of Account 271 shall segregate the Contributions in Aid of Construction recorded prior to the change in ratemaking policy from amounts recorded subsequent thereto.

The subsidiary accounts of Account 272 shall be maintained to provide a segregation of the accumulated amortization charges which relate to or correlate to the 'Contribution' segregated balances.

The 'pre' and 'post' segregation categories will coincide with the effective date of the first definitive Commission order applicable to the subject utility which applies the ratemaking disallowance policy.

2. Utilities that discontinued recording depreciation expense in their books of account subsequent to its disallowance for ratemaking purposes shall record the impairment of the 'Contribution' account for the period from date of disallowance to December 31, 1986 by debit Account 272, 'Accumulated Amortization of Contributions in Aid of Construction' and credit to the appropriate subaccount of Account 108, 'Accumulated Depreciation.'

3. Utilities that continued to record depreciation expense in their books of account subsequent to its disallowance for ratemaking shall record the impairment of the 'Contribution' account by debit to Account 272, 'Accumulated Amortization of Contributions in Aid of Construction' and credit to Account 439, 'Adjustments to Retained Earnings.' It shall cover the period from date of disallowance to December 31, 1986.

4. The amortization of the 'Pre' disallowance balance of Account 271 shall continue until it is fully amortized at which time it shall be written off against its related

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Account 272 balance.

5. Within six months of the effective date of this System of Accounts (83 Ill. Adm. Code 650), each utility shall submit its proposed journal entries for recording the implementation of the transition rules to the Director of Accounting Chief-Accountant of the Commission to ascertain whether the utility has complied with Accounting Instruction 39.

6. Should an impairment of the 'Contribution' account have occurred prior to the period covered by the transition rules in this Accounting Instruction, the utility shall submit its proposed journal entries to record such impairment accompanied by a complete explanation to the Director of Accounting Chief-Accountant for acceptance and approval. The Director of Accounting Chief-Accountant shall accept and approve the journal entries if an impairment has occurred and if the entries reflect the level of impairment."

(Source: Amended at 22 Ill. Reg. 1, effective JUL 1 1988)

Section 650.180 Plant Account Matrix

Delete the Account Matrix appearing on pages 94 and 95 of the NARUC Uniform System of Accounts and replace it with the material in TABLE A.

(Source: Amended at 22 Ill. Reg. 1, effective JUL 1 1988)

Section 650.185 Expense Accounts Matrix

Delete the Sewer Operation and Maintenance Expense Accounts Matrix appearing on pages 132 and 133 of the NARUC Uniform System of Accounts and replace it with the material in TABLE B.

(Source: Amended at 22 Ill. Reg. 1, effective JUL 1 1988)

Section 650.1030 Account 103

In Account 103, "Property Held for Future Use," add "Director of Accounting Chief-Accountant-of-the" before "Commission" in Paragraph B.

(Source: Amended at 22 Ill. Reg. 1, effective JUL 1 1988)

Section 650.1080 Account 108 (Repealed)

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTS

in--Account-1007--"Accumulated-Depreciation,"--the-following-material-is-added-to Paragraph-B:
"Note:--Not later than nine months after the effective date--of--this system--of--accounts--(the--effective--day--of--this--party--each-utility shall submit to the Chief Accountant of the Commission the method used in the segregation of the composite accumulated depreciation into the prescribed functional categories)--A--narrative--statement--and applicable journal entries shall accompany the submission--describing the methodology--pursued--so that a ready analysis of the segregation may be made--the narrative statement will be analyzed--to--determine whether--the--proposed--segregation--complies with the requirements of Account-1007."

(Source: Repealed at 22 Ill. Reg. 11.03, effective 11.03.03)

Section 650.3330 Account 333 (Repealed)

In--Paragraph--G--of--Account--3337--"Services,"--delete the clause--"and--in any event,--shall be retired by the end of the second year--following--that--during which the service became inactive unless reused in the interim."

(Source: Repealed at 22 Ill. Reg. 11.03, effective 11.03.03)

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTS

Section 650 TABLE A Prescribed Plant Account Matrix

SEWER UTILITY PLANT ACCOUNTS					
	1	2	3	4	5
	Intangible Plant	Collection Plant	System Pumping Plant	Treatment and Disposal Plant	Reclaimed Water Treatment Plant
351 Organization	351.1				
352 Franchises	352.1				
353 Land and Land Rights		353.2	353.3	353.4	353.5
354 Structures and Improvements		354.2	354.3	354.4	354.5
355 Power Generation Equipment		355.2	355.3	355.4	355.5
360 Collection Sewers - Force		360.2			
361 Collection Sewers - Gravity		361.2			
362 Special Collecting Structures		362.2			
363 Services to Customers		363.2			
364 Flow Measuring Devices		364.2			
365 Flow Measuring Installation		365.2			
366 Reuse Services					366.6
367 Reuse Meters and Meter Installation					367.6
370 Receiving Wells			370.3		
371 Pumping Equipment			371.3	371.5	371.6
374 Reuse Distribution Reservoirs				374.5	
375 Reuse Transmission & Distribution System					375.6
380 Treatment and Disposal Equipment				380.4	
381 Plant Sewers				381.4	
382 Outfall Sewer Line				382.4	
389 Other Plant and Misc. Equipment	389.1	389.2	389.3	389.4	389.6
390 Office Furniture and Equipment					390.5
391 Transportation Equipment					391.5
392 Stores Equipment					392.6
393 Tools, Shop and Equipment					393.5
394 Laboratory Equipment					394.5
395 Power Operated Equipment					395.5

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

396 Communication
397 Equipment
398 Misc. Equipment
Other Tangible Plant

396.5
397.5
398.5

396.7
397.7
398.7

(Source: Amended at 22 Ill. Reg. 11722, effective July 1, 1998)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Section 650. TABLE B Prescribed Expenses Accounts Matrix

SEWER OPERATION AND MAINTENANCE EXPENSE ACCOUNTS

	1	2	3	4	5	6
	Collection Expenses Oper	Collection Expenses Maint	Pumping Expenses Oper	Pumping Expenses Maint	Treatment & Disposal Expenses Oper	Treatment & Disposal Expenses Maint
701 Salaries and Wages - Employees	701.1	701.2	701.3	701.4	701.5	701.6
703 Salaries and Wages - Officers and Majority Stockholders						
704 Employee Pensions and Benefits						
710 Purchases - Sewage Treatment					710.5	
711 Sludge Removal Treatment Expenses					711.5	711.6
715 Purchased Power	715.1		715.3		715.5	
716 Fuel for Power Production						
718 Chemicals	718.1		718.3		718.5	
720 Materials and Supplies	720.1	720.2	720.3	720.4	720.5	720.6
731 Contractual Services - Engineering	731.1	731.2	731.3	731.4	731.5	
732 Contractual Services - Accounting						
733 Contractual Services - Legal						
734 Contractual Services - Management Fees						
735 Contractual Services - Testing	735.1	735.2	735.3	735.4	735.5	735.6
736 Contractual Services - Other	736.1	736.2	736.3	736.4	736.5	736.6
741 Rental of Building/Property	741.1	741.2	741.3	741.4	741.5	741.6
742 Rental of Equipment	742.1	742.2	742.3	742.4	742.5	742.6
750 Transportation Expense	750.1	750.2	750.3	750.4	750.5	750.6
756 Insurance - Vehicle						
757 Insurance - General Liability						
758 Insurance - Workman's Compensation	758.1	758.2	758.3	758.4	758.5	758.6
759 Insurance - Other						
760 Advertising Expense						
766 Regulatory Commissions - Amortization of Rate Case Expense						
767 Regulatory Commission Expenses - Other						
770 Bad Debt Expense		775.2	775.3	775.4	775.5	775.6
775 Miscellaneous Expense	775.1					

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

SEWER OPERATION AND MAINTENANCE EXPENSE ACCOUNTS

	7	8	9	10	11	12
	Customer Accounts Expenses	Admin & General Expenses	Reclaimed Water Treatment Exp. - Oper.	Reclaimed Water Treatment Exp. - Oper.	Reclaimed Water Dis- tribution Exp. - Maint.	Reclaimed Water Dis- tribution Exp. - Maint.
Salaries and Wages -						
Employees						
703 Salaries and Wages -						
Officers and Merit						
704 Stockholders						
Employee Pensions and						
Benefits						
710 Purchases Sewage						
Treatment						
711 Sludge Removal Treatment						
Expenses						
715 Purchased Power						
716 Fuel for Power Production						
Chemicals						
718 Materials and Supplies						
720 Contractual Services						
731 Engineering Services						
732 Accounting Services						
733 Contractual Services - Legal						
734 Contractual Services						
Management Fees						
735 Contractual Services						
Testing						
736 Contractual Services						
Other						
741 Rental of Building						
Rental of Property						
742 Rental of Equipment						
750 Transportation Expense						
756 Insurance - Vehicle						
757 Insurance - General Liability						
Insurance - Workman's						
758 Compensation						
759 Insurance - Other						
760 Advertising Expense						
766 Regulatory Commissions -						
Amortization of Rate Case						
Expense						
767 Regulatory Commission						
Expenses - Other						
770 Bad Debt Expense						
775 Miscellaneous Expense						

(Source: Amended at 22 Ill. Reg. _____, effective July 1, 1998)

- 1) Heading of the Part: Uniform System of Accounts for Water Utilities
- 2) Code Citation: 83 Ill. Adm. Code 605

3) Section Numbers:	Adopted Action:
605.10	Amendment
605.100	Amendment
605.115	Amendment
605.120	Amendment
605.138	New Section
605.140	Amendment
605.165	Amendment
605.170	Amendment
605.175	Amendment
605.180	Amendment
605.185	Amendment
605.1030	Amendment
605.1080	Repeal
605.1081	Amendment
605.2720	Amendment
605.Table A	Amendment
605.Table B	Amendment

- 4) Statutory Authority: Implementing Section 5-102 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/5-102 and 10-101].

- 5) Effective Date of Amendments: July 1, 1998

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Do these amendments contain incorporations by reference? Yes

- 8) Date Filed in Agency's Principal Office: June 17, 1998

- 9) Notice of Proposal Published in Illinois Register: December 19, 1997 at 21 Ill. Reg. 16215

- 10) Has JCAR issued a Statement of Objections to these amendments? No

- 11) Difference(s) between proposal and final version: Section 605.140: change "should" to "shall".

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

- 13) Will these amendments replace an emergency amendments currently in effect?
No

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments? Part 605 incorporates by reference the Uniform System of Accounts (USOA) for Class A Water Utilities of the National Association of Regulatory Utility Commissioners (NARUC) with certain specified additions and deletions. The purpose in amending Part 605 is to adopt the 1996 NARUC USOA, which will make the Uniform System of Accounts for Water Utilities available in an electronic format, to make one additional deviation from the NARUC USOA, and to make house-keeping changes.
- 16) Information and questions regarding these adopted amendments shall be directed to:
- Conrad S. Rubinkowski
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
P.O. Box 19280
Springfield, IL 62794-9280
(217)785-3922

The full text of the Adopted Amendments begins on the next page:

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER e: WATER UTILITIES

PART 605

UNIFORM SYSTEM OF ACCOUNTS FOR WATER UTILITIES

SUBPART A: ADOPTION OF UNIFORM SYSTEM OF ACCOUNTS
BY REFERENCE

Section
605.10

Adoption of Uniform System of Accounts by Reference

SUBPART B: ADDITIONS TO AND DELETIONS FROM NARUC UNIFORM
SYSTEM OF ACCOUNTS

Section

605.100 Accounting Instruction 1
605.105 Accounting Instruction 2
605.110 Accounting Instruction 13
605.115 Accounting Instruction 18
605.120 Accounting Instruction 19
605.125 Accounting Instruction 21
605.130 Accounting Instruction 22
605.135 Accounting Instruction 29
605.138 Accounting Instruction 26
605.140 Accounting Instruction 30
605.145 Accounting Instruction 32
605.150 Accounting Instruction 33
605.155 Accounting Instruction 34
605.160 Accounting Instruction - Example
605.165 Accounting Instruction 37
605.170 Accounting Instruction 40 98
605.175 Accounting Instruction 39
605.180 Plant Account Matrix
605.185 Expense Accounts Matrix
605.200 Retirement Units Generally
605.204 General Instructions with Respect to Structures and Equipment
605.205 Retirement Unit Instructions
605.206 List of General Retirement Units
605.210 Variances
605.301 Retirement Unit Account 301 Organization
605.302 Retirement Unit Account 302 Franchises
605.303 Retirement Unit Account 303 Land and Land Rights
605.304 Retirement Unit Account 304 Structures and Improvements
605.305 Retirement Unit Account 305 Collecting and Impounding Reservoirs
605.306 Retirement Unit Account 306 Lake, River and Other Intakes
605.307 Retirement Unit Account 307 Wells and Springs
605.308 Retirement Unit Account 308 Infiltration Galleries and Tunnels
605.309 Retirement Unit Account 309 Supply Mains

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTS

The Illinois Commerce Commission ("Commission") adopts the Uniform System of Accounts for Class A Water Utilities (1994) (1994) of the National Association of Regulatory Utility Commissioners ("NARUC") as its uniform system of accounts for water utilities, subject to the exceptions set forth in Subpart B of this Part. No incorporation in this Part incorporates any later amendment or edition.

(Source: Amended at 22 Ill. Reg. 11746, effective 11/1/98)

SUBPART B: ADDITIONS TO AND DELETIONS FROM NARUC UNIFORM SYSTEM OF ACCOUNTS

Section 605.100 Accounting Instruction 1

Accounting Instruction 1, "General - Classification of Utilities," is deleted and replaced by the following:

"A. For the purpose of applying the system of accounts prescribed by the Commission, water utilities are divided into two classes, as follows:

Class A - Utilities having annual water operating revenues of \$1,000,000 or more.

Class B - Utilities having annual water operating revenues of less than \$1,000,000.

B. This system of accounts applies to Class A utilities. Class B utilities shall keep all the accounts of this system of accounts applicable to their affairs. Class B utilities may, however, keep accounts for operating revenues and operating expenses under the accounts of the condensed classifications provided by this Part. (See Accounting Instruction 40 38.)

C. The class to which any utility belongs shall originally be determined by the average of its annual water operating revenue for the last three consecutive years. Subsequent changes in classification shall be made when the annual water operating revenues for each of the three immediately preceding years shall exceed \$1,000,000 on a stand alone basis of the annual water and sewer operating revenues.

D. Class B utilities desiring more detailed accounting may adopt the accounts prescribed for Class A utilities. Class B utilities are not required to comply with more detailed accounts than what otherwise may be their case."

(Source: Amended at 22 Ill. Reg. 11746, effective 11/1/98)

Section 605.115 Accounting Instruction 18

a) In paragraph A of Accounting Instruction 18, "Utility Plant" be recorded at cost, the phrase "See Accounting Instruction 2B" is replaced by "See Definition 9."

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTS

605.310 Retirement Unit Account 310 Power Production Equipment
605.311 Retirement Unit Account 311 Pumping Equipment
605.320 Retirement Unit Account 320 Water Treatment Equipment
605.330 Retirement Unit Account 330 Distribution Reservoirs and Standpipes
605.331 Retirement Unit Account 331 Transmission Mains and Distribution Mains
605.333 Retirement Unit Account 333 Services
605.334 Retirement Unit Account 334 Meters and Meter Installations
605.335 Retirement Unit Account 335 Hydrants
605.339 Retirement Unit Account 339 Other Plant and Miscellaneous Equipment
605.340 Retirement Unit Account 340 Office Furniture and Equipment
605.341 Retirement Unit Account 341 Transportation Equipment
605.342 Retirement Unit Account 342 Stores Equipment
605.343 Retirement Unit Account 343 Tools, Shop and Garage Equipment
605.344 Retirement Unit Account 344 Laboratory Equipment
605.345 Retirement Unit Account 345 Power Operated Equipment
605.346 Retirement Unit Account 346 Communication Equipment
605.347 Retirement Unit Account 347 Miscellaneous Equipment
605.348 Retirement Unit Account 348 Other Tangible Property
605.1030 Account 103
605.1080 Account 108 (Repealed)
605.1081 Account 108.1
605.1240 Account 124
605.1410 Account 141
605.2150 Account 215
605.2180 Account 218
605.2710 Account 271
605.2720 Account 272
605.2830 Account 283
605.3330 Account 333
605.4030 Account 403
605.4120 Account 412
605.4200 Account 420
605.4330 Account 433
605.4340 Account 434
605.6600 Account 660

TABLE A
TABLE B
Prescribed Plant Account Matrix
Prescribed Expenses Accounts Matrix

AUTHORITY: Implementing Section 5-102 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/5-102 and 10-101].

SOURCE: Effective January 1, 1962; codified at 8 Ill. Reg. 19709; Part repeated, new Part adopted at 11 Ill. Reg. 9051, effective May 1, 1987; amended at 22 Ill. Reg. 11745, effective 11/1/98.

SUBPART A: ADOPTION OF UNIFORM SYSTEM OF ACCOUNTS

Section 605.10 Adoption of Uniform System of Accounts by Reference

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

b) In paragraph D of Accounting Instruction 18, the clause "For contributed utility plant, the accumulated depreciation or amortization account shall be charged" is replaced by "For contributed utility plant, the accumulated depreciation or amortization account shall be credited."

(Source: Amended at 22 Ill. Reg. 11-40, effective JUL 01 1998)

Section 605.120 Accounting Instruction 19

a) The Note in Item 3 of Accounting Instruction 19, Utility Plant - Components of Construction Cost, is revised to state:

"Note: The cost of individual items of equipment of small value or of short life, including small portable tools and implements, shall not be charged to utility plant accounts unless the correctness of the accounting therefor is verified by current inventories. The cost shall be charged to the appropriate operating expense or clearing accounts, according to the use of such items, or, if such items are consumed directly in construction work, the cost shall be included as part of the cost of the construction unit."

b) In Accounting Instruction 19, "Utility Plant - Components of Construction Cost," Item 17 is deleted (except for the note) and replaced with the following:

"Allowance for funds used during construction" ('AFUDC') includes the net cost for the period of construction of borrowed funds used for construction purposes and a reasonable rate on other funds when so used, not to exceed allowances computed in accordance with the formula prescribed in paragraph (a). No AFUDC charges shall be included in these accounts upon expenditures for construction projects that have been abandoned.

1) The formula and elements for the computation of AFUDC shall be:

$$A(i) = S(S/W) + d(D/(D+P+C))(1-S/W)$$

$$A(e) = [1-S/W][P/(D+P+C)] + C(C/(D+P+C))$$

A(i) = Gross allowance for borrowed funds used during construction rate

A(e) = Allowance for other funds used during construction rate

S = Average short term debt

s = Short-term debt interest rate

D = Long-term debt

d = Long-term debt interest rate

P = Preferred stock

p = Preferred stock cost rate

C = Common equity

c = Common equity cost rate

W = Average balance in construction work in progress

2) The rates shall be determined annually except that the rates may be adjusted for current year security issues which affect the weighted average of long-term debt and/or preferred stock or when

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

the return on equity awarded a current rate case exceeds the computational return on equity. The balances for long-term debt, preferred stock, and common equity shall be the actual book balances as of the end of the prior year. The cost rates for long-term debt and preferred stock shall be the weighted average cost. The cost rate for common equity shall be the rate granted common equity in the last rate proceeding before the Commission. If such cost rate is not available, the average rate actually earned during the preceding three years shall be used. The short-term debt balances and related cost and the average balance for construction work in progress shall be estimated for the current year with appropriate adjustments as actual data become available."

(Source: Amended at 22 Ill. Reg. 11-40, effective JUL 01 1998)

Section 605.138 Accounting Instruction 26

Paragraph B of Accounting Instruction 26 is modified to state as follows:

"Exclude from equipment accounts hand and other portable tools, which are likely to be lost or stolen or which have a relatively small value or short life, unless the correctness of the accounting therefor as utility plant is verified by current inventories. Special tools acquired and included in the purchase price of equipment shall be included in the appropriate plant account. Portable drills and similar tool equipment when used in connection with the operation and maintenance of a particular plant or department, such as pumping, transmission and distribution, etc., or in "stores", shall be charged to the plant account appropriate for their use."

(Source: Added at 22 Ill. Reg. 11-40, effective JUL 01 1998)

Section 605.140 Accounting Instruction 30

In Paragraph C of Accounting Instruction 30, "Utility Plant - Common Plant," shall be restated as follows: delete "(301-to-349)" and replace with "(301-to-348)."

"The utility shall be prepared to show at any time by utility plant accounts (301 to 348) the following:

a) the book cost of common utility plant

b) the allocation of such cost to the respective departments using the common utility plant and

c) the basis of the allocation."

(Source: Amended at 22 Ill. Reg. 11-40, effective JUL 01 1998)

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTS

Section 605.165 Accounting Instruction 37

a) ~~From--Paragraph---A---of---Accounting---Instruction---37,---"Operating
Income---Operation---and---Maintenance---Expense---Account-Matrix"---delete
"and-B."~~

b) Delete Paragraph B of Accounting Instruction 37 and replace with the following:

"B. The 'functional' operations for the water system are listed with the designated suffix:
.1 Source of supply expenses - operating and maintenance
.2 Pumping expenses - operations
.3 Pumping expenses - maintenance
.4 Water treatment expenses - operations
.5 Water treatment expenses - maintenance
.6 Transmission and distribution expenses - operations
.7 Transmission and distribution expenses - maintenance
.8 Customer account expenses
.9 Administrative and general expenses"

(Source: Amended at 22 Ill. Reg. 11.1.01, effective 1-1-01)

Section 605.170 Accounting Instruction 40 38

a) Class A Utilities shall maintain the accounts listed in subsections (a)(1) through (a)(8) of this Section.

1) Utility Operating Accounts
Account No.

- 400 Operating Revenues
- 401 Operating Expenses
- 403 Depreciation Expenses
- 406 Amortization of Utility Plant
- Acquisition Adjustments
- 407 Amortization Expense
- 407.1 Amortization of Limited Term Plant
- 407.2 Amortization of Property Losses
- 407.3 Amortization of Other Utility Plant
- 407.4 Amortization of Regulatory Assets
- 407.5 Amortization of Regulatory Liabilities
- 408 Taxes Other Than Income
- 408.10 Utility Regulatory Assessment Fees
- 408.11 Property Taxes
- 408.12 Payroll Taxes
- 408.13 Other Taxes and License
- 409 Income Taxes
- 409.10 Federal Income Taxes, Utility

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTS

- 409.11 Operating Income
- 409.12 State Income Taxes, Utility
- 410 Local Income Taxes, Utility
- 410.10 Operating Income
- 410.11 Provision for Deferred Income Taxes
- 410.12 Deferred Federal Income Taxes
- 411 Deferred State Income Taxes
- 411.10 Deferred Local Income Taxes
- 412 Provision for Deferred Income Taxes
- 412.10 - Credit
- 412.11 Provision for Deferred Income Taxes
- 413 - Credit, Utility Operating Income
- 414 Investment Tax Credits
- 414.10 Investment Tax Credits Deferred to Future Periods, Utility Operations
- 414.11 Investment Tax Credits Restored to Operating Income, Utility Operations
- 414.12 Income From Utility Plant Leased to Others
- 414.20 Gains (Losses) From Disposition of Utility Property
- 2) Other Income and Deductions

- 415 Revenues from Merchandising, Jobbing and Contract Work
- 416 Costs and Expenses of Merchandising, Jobbing and Contract Work
- 419 Interest and Dividend Income
- 420 Allowance for Funds Used During Construction
- 421 Nonutility Income
- 426 Miscellaneous Nonutility Expenses
- 3) Taxes Applicable to Other Income and Deductions
- 408 Taxes Other Than Income
- 408.20 Taxes Other Than Income, Other Income and Deductions
- 409 Income Taxes
- 409.20 Income Taxes, Other Income and Deductions
- 410 Provision for Deferred Income Taxes
- 410.20 Provision for Deferred Income Taxes, Other Income and Deductions
- 411 Other Income and Deductions
- 411.10 Provision for Deferred Income Taxes
- 411.20 - Credit
- 411.20 Provision for Deferred Income Taxes
- 411.20 - Credit, Other Income and Deductions

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 412 Investment Tax Credits
 412.20 Investment Tax Credits - Net,
 Nonutility Operations
 412.30 Investment Tax Credits Restored
 to Nonoperating Income, Utility
 Operations
- 4) Interest Expense
 427 Interest Expense
 427.1 Interest on Debt to Affiliated
 Interests
 427.2 Interest on Short-term Debt
 427.3 Interest on Long-Term Debt
 427.4 Interest on Customer Deposits
 427.5 Interest - Other
 428 Amortization of Debt Discount and
 Expense
 429 Amortization of Premium on Debt
- 5) Extraordinary Items
 433 Extraordinary Income
 434 Extraordinary Deduction
 409.30 Income Taxes, Extraordinary Items
- 6) Retained Earnings Accounts
 435 Balance Transferred From Income
 436 Appropriations of Retained Earnings
 437 Dividends Declared - Preferred Stock
 438 Dividends Declared - Common Stock
 439 Adjustments to Retained Earnings
- 7) Water Operation Revenue Accounts
 A) Water Revenue
 460 Unmetered Water Revenue
 461 Metered Water Revenue
 461.1 Metered Sales to Residential
 Customers
 461.2 Metered Sales to Commercial
 Customers
 461.3 Metered Sales to Industrial
 Customers
 461.4 Metered Sales to Public
 Authorities
 461.5 Metered Sales to Multiple
 Family Dwellings
 462 Fire Protection
 462.1 Public Fire Protection
 462.2 Private Fire Protection
 464 Other Sales to Public

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 465 Authorities
 466 Sales to Irrigation Customers
 467 Sales for Resale
 Interdepartmental Sales
 B) Other Water Revenues
 469 Guaranteed Revenues
 470 Forfeited Discounts
 471 Miscellaneous Service
 Revenues
 472 Rents from Water Property
 473 Interdepartmental Rents
 474 Other Water Revenues
- 8) Water Operation and Maintenance Expense Accounts
 601 Salaries and Wages - Employees
 603 Salaries and Wages - Officers,
 Directors and Majority Stockholders
 Employee Pensions and Benefits
 604 Purchased Water
 610 Fuel for Power Production
 615 Purchased Power
 616 Chemicals
 618 Materials and Supplies
 620 Contractual Services - Engineering
 631 Contractual Services - Accounting
 632 Contractual Services - Legal
 633 Contractual Services - Management
 634 Fees
 635 Contractual Services - Testing
 636 Contractual Services - Other
 641 Rental of Building/Real Property
 642 Rental of Equipment
 650 Transportation Expense
 656 Insurance - Vehicle
 657 Insurance General
 658 Insurance - Workman's Compensation
 659 Insurance - Other
 660 Advertising Expense
 666 Regulatory Commission Expenses -
 Amortization of Rate Case Expense
 668 Water Resource Conservation
 Expense
 667 Regulatory Commission Expenses -
 Other
 670 Bad Debt - Expense
 675 Miscellaneous Expenses
- b) Class B utilities shall maintain the accounts listed in subsections
 (b)(1) through (b)(8) of this Section.
 1) Utility Operating Accounts

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTS

Account No.

400	Operating Revenues
401	Operating Expenses
403	Depreciation Expenses
406	Amortization of Utility Plant
	Acquisition Adjustments
407	Amortization Expense
407.1	Amortization of Limited Term Plant
407.2	Amortization of Property Losses
407.3	Amortization of Other Utility Plant
407.4	Amortization of Regulatory Assets
407.5	Amortization of Regulatory Liabilities
408	Taxes Other Than Income
409	Income Taxes
410	Provision for Deferred Income Taxes
411	Provision for Deferred Income Taxes
	- Credit
412	Investment Tax Credits
413	Income From Utility Plant Leased to Others
414	Gains (Losses) From Disposition of Utility Property
2) Other Income and Deductions	
415	Revenues from Merchandising, Jobbing and Contract Work
416	Costs and Expenses of Merchandising, Jobbing and Contract Work
419	Interest and Divided Income
420	Allowance for Funds Used During Construction
421	Nonutility Income
426	Miscellaneous Nonutility Expenses
3) Taxes Applicable to Other Income and Deductions	
408	Taxes Other Than Income
409	Income Taxes
410	Provision for Deferred Income Taxes
411	Provision for Deferred Income Taxes
	- Credit
412	Investment Tax Credits
4) Interest Expense	
427	Interest Expense
428	Amortization of Debt Discount and Expense
429	Amortization of Premium on Debt

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTS

5) Extraordinary Items

433	Extraordinary Income
434	Extraordinary Deduction
409.30	Income Taxes, Extraordinary Items
6) Retained Earnings Accounts	
435	Balance Transferred From Income
436	Appropriations of Retained Earnings
437	Dividends Declared - Preferred Stock
438	Dividends Declared - Common Stock
439	Adjustments to Retained Earnings
7) Water Operation Revenue Accounts	

A) Water Revenue

460	Unmetered Water Revenue
461	Metered Water Revenue
462	Fire Protection
464	Other Sales to Public Authorities
465	Sales to Irrigation Customers
466	Sales for Resale
467	Interdepartmental Sales
B) Other Water Revenues	

Guaranteed Revenues

469	Guaranteed Revenues
470	Forfeited Discounts
471	Miscellaneous Service Revenues
472	Rents from Water Property
473	Interdepartmental Rents
474	Other Water Revenues
8) Water Operation and Maintenance Expense Accounts	

601	Salaries and Wages
604	Employee Pensions and Benefits
610	Purchased Water
615	Purchased Power
616	Fuel for Power Production
618	Chemicals
620	Materials and Supplies
631	Contractual Services
641	Rental of Building/Real Property
642	Rental of Equipment
650	Transportation Expense
656	Insurance
660	Advertising Expense
666	Regulatory Commission Expense
668	Water Resource Conservation

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Expense
 670 Bad Debt Expense
 675 Miscellaneous Expenses

(Source: Amended at 22 Ill. Reg. JUL 1 1990, effective JUL 1 1990)

Section 605.175 Accounting Instruction 39

Add the following material as Accounting Instruction 39, Transition Rules - Contributions in Aid of Construction

"A. The transition rules are to govern the accounting for Contributions in Aid of Construction. They are based on the premise that the integrity of the "contribution" account was preserved during the period encompassed by the Commission's ratemaking policy of allowance of depreciation expense as a recoverable operating expense on property which was the contra to the "contribution" account.

B. The rules provide for recording the impairment of the "contributions" account which occurred subsequent to the change in Commission policy of disallowance of depreciation expense on "contributed property" for ratemaking purposes.

1. Subsidiary records will be maintained for Account 271, "Contributions in Aid of Construction" and Account 272, "Accumulated Amortization of Contributions in Aid of Construction." Subsidiary accounts of Account 271 shall segregate the Contributions in Aid of Construction recorded prior to the change in ratemaking policy from amounts recorded subsequent thereto. The subsidiary accounts of Account 272 shall be maintained to provide a segregation of the accumulated amortization charges which relate to or correlate to the "contribution" segregated balances.

The "pre" and "post" segregation categories will coincide with the effective date of the first definitive Commission Order applicable to the subject utility which applies the ratemaking disallowance policy.

2. Utilities that discontinued recording depreciation expense in their books of account subsequent to its disallowance for ratemaking purposes shall record the impairment of the "contribution" account for the period from date of disallowance to December 31, 1986 by debit to Account 272, "Accumulated Amortization of Contributions in Aid of Construction" and credit to the appropriate sub-account of Account 108, "Accumulated Depreciation."

3. Utilities that continued to record depreciation expense in their books of account subsequent to its disallowance for ratemaking shall record the impairment of the "contribution" account by debit to Account 272, "Accumulated Amortization of Contributions in Aid of Construction" and credit to Account 439, "Adjustments

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

to Retained Earnings." It shall cover the period from date of disallowance to December 31, 1986.

4. The amortization of the "pre" disallowance balance of Account 271 shall continue until it is fully amortized at which time it shall be written off against its related Account 272 balance.

5. Within six months of the effective date of this System of Accounts (83 Ill. Adm. Code 605), each utility shall submit its proposed journal entries for recording the implementation of the transition rules to the Director of Accounting ~~Chief--Accountant~~ of the Commission to ascertain whether the utility has complied with Accounting Instruction 39.

6. Should an impairment of the "contribution" account have occurred prior to the period covered by the transition rules in this Accounting Instruction, the utility shall submit its proposed journal entries to record such impairment accompanied by a complete explanation to the Director of Accounting ~~Chief--Accountant~~ for acceptance and approval. The Director of Accounting ~~Chief--Accountant~~ shall accept and approve the journal entries if an impairment has occurred and if the entries reflect the level of impairment."

(Source: Amended at 22 Ill. Reg. JUL 1 1990, effective JUL 1 1990)

Section 605.180 Plant Account Matrix

Delete the Plant Account Matrix appearing--on pages-94-and-95 of the NARUC Uniform System of Accounts and replace it with the material in TABLE A.

(Source: Amended at 22 Ill. Reg. JUL 1 1990, effective JUL 1 1990)

Section 605.185 Expense Accounts Matrix

Delete the Water Operation and Maintenance Expense Accounts Matrix appearing-on pages--138--and--139 of the NARUC Uniform System of Accounts and replace it with the material in TABLE B.

(Source: Amended at 22 Ill. Reg. JUL 1 1990, effective JUL 1 1990)

Section 605.1030 Account 103

In Account 103, "Property Held for Future Use," add "Director of Accounting ~~Chief--Accountant~~ of the" before "Commission" in Paragraph B.

(Source: Amended at 22 Ill. Reg. JUL 1 1990, effective JUL 1 1990)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Section 605.1080 Account 108 (~~Repealed~~)

IN ACCOUNT 109-"Accumulated Depreciation"-the following material is added to the account-B-

[illegible]

(Source: Repealed at 22 Ill. Reg. effective 1-1-1971)

Section 605.1081 Account 108.1

a) In Paragraph A(4) of Account 108.1, "Accumulated Depreciation of Utility Plant in Service," delete the phrase "if such amortization is recognized by the Commission."

b) In Paragraph G of Account 109.1, delete the reference to Accounting Instruction-29 and replace it with a reference to Accounting Instruction-29.

(Source: Amended at 22 Ill. Reg. effective

Section 605.2720 Account 272

a+ In Paragraph A of Account 272, "Accumulated Amortization of Contributions in Aid of Construction," delete the phrase "recognized by the Commission" and replace it with "(See Accounting Instruction 39)."

b+ In Paragraph C of Account 272, delete reference to "Accounting Instruction 39" and replace with "Accounting Instruction 44."

(Source: Amended at	22	Ill.	Reg.	effective

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Section 605. TABLE A Prescribed Plant Account Matrix

WATER UTILITY PLANT ACCOUNTS

	.1	.2	.3	.4	.5	.6
					Trans- mission and Distri- bution Plant	General Plant
	Intan- gible Plant	Source of Supply	Pumping Plant	Water Treat- ment Plant		
301 Organization	301.1					
302 Franchises	302.1					
303 Land and Land Rights		303.2	303.3	303.4	303.5	303.6
304 Structures and Improvements		304.2	304.3	304.4	304.5	304.6
305 Collecting and Impounding Reservoirs		305.2				
306 Lake, River and Other Intakes		306.2				
307 Wells and Springs		307.2				
308 Infiltration Gal- leries and Tunnels		308.2				
309 Supply Mains		309.2				
310 Power Genera- tion Equipment			310.3			
311 Pumping Equipment			311.3			
320 Water Treatment Equipment				320.4		
330 Distribution Reservoirs and Standpipes					330.5	
331 Transmission and Distribution Mains					331.5	
333 Services					333.5	
334 Meters and Meter Installations					334.5	
335 Hydrants					335.5	
336 Backflow Preven- tion Devices					336.5	
339 Other Plant and Miscellaneous						

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

.1	.2	.3	.4	.5	.6
Intan- gible Plant	Source of Supply	Pumping Plant	Water Treat- ment Plant	Trans- mission and Distri- bution Plant	General Plant
339.1	339.2	339.3	339.4	339.5	
Equipment 340 Office Furni- ture and Equipment 341 Transportation Equipment 342 Stores Equip- ment 343 Tools, Shop, and Garage Equipment 344 Laboratory Equipment 345 Power Operated Equipment 346 Communication Equipment 347 Miscellaneous Equipment 348 Other Tangible Plant					340.6 341.6 342.6 343.6 344.6 345.6 346.6 347.6 348.6
(Source: Amended at 22 Ill. Reg. <u>11743</u> , effective <u>JUL 01 1993</u>)					

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Section 605. TABLE B Prescribed Expenses Accounts Matrix

WATER OPERATION AND MAINTENANCE EXPENSE ACCOUNTS					
CLASS A					
	.1	.2	.3	.4	
	Source of Supply & Oper. Expenses	Pumping Oper. Expenses	Pumping Maint. Expenses	Water Treatment Expense Oper.	
601 Salaries and Wages - Employees	601.1	601.2	601.3	601.4	
603 Salaries and Wages - Officers, Directors and Majority Stockholders					
604 Employee Pensions and Benefits					
610 Purchased Water	610.1				615.4
615 Purchased Power	615.1	615.2			
616 Fuel for Power Production	616.1	616.2			616.4
618 Chemicals	618.1				618.4
620 Materials and Supplies	620.1	620.2	620.3		620.4
631 Contractual Services- Eng.	631.1	631.2	631.3		631.4
632 Contractual Services- Acct.					
633 Contractual Services Legal					
634 Contractual Services- Management Fees					
635 Contractual Services- Testing					
636 Contractual Services- Other	635.1	635.2	635.3	635.4	
641 Rental of Building/ Real Property	636.1	636.2	636.3	636.4	
642 Rental of Equipment	641.1	642.2	641.3	641.4	
650 Transportation Expense	642.1	642.2	642.3	642.4	
656 Insurance - Vehicle	650.1	650.2	650.3	650.4	
657. Insurance - General Liability					
658. Insurance - Workman's Compensation					
659 Insurance - Other	658.1	658.2	658.3	658.4	
660 Advertising Expense					
666. Regulatory Commission					

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

	.1	.2	.3	.4
Source of Supply & Pumping Expenses-Oper.				Water Treatment Expense
Expenses-Oper.				Oper.
667 Regulatory Commission Expenses - Other				
668 Water Resource Conservation Expense	668.1			
670 Bad Debt Expense	675.1	675.2	675.3	675.4
675 Miscellaneous Expense				

WATER OPERATION AND MAINTENANCE EXPENSE ACCOUNTS

	.5	.6	.7	.8	.9
Water Trans. & TreatmentDist. Expenses-Oper.					Water Admin. & General Expenses
Maint.					Oper.
601 Salaries and Wages - Employees	601.5	601.6	601.7	601.8	601.9
603 Salaries and Wage - Directors and Majority Stockholders					603.9
604 Employee Pen-sions and Benefits					604.9
610 Purchased Water		615.6		615.8	615.9
615 Purchased Power		616.6		616.8	616.9
616 Fuel for Power Production		618.6			
618 Chemicals					
620 Materials and Supplies	620.5	620.6	620.7	620.8	620.9
631 Contractual Services-Eng.	631.5	631.6	631.7	631.8	631.9
632 Contractual Services-Acct.					
633 Contractual					

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

	.5	.6	.7	.8	.9
Water TreatmentDist. Expenses-Oper.					Water Admin. & General Expenses
Maint.					Oper.
634 Contractual Services-Management Fees					633.9
635 Contractual Services-Testing	635.5	635.6	635.7	635.8	645.9
636 Contractual Services-Other	636.5	636.6	636.7	636.8	636.9
641 Rental of Building/Real Property	641.5	641.6	641.7	641.8	641.9
642 Rental of Equipment	642.5	642.6	642.7	642.8	642.9
650 Transportation Expenses	650.5	650.6	650.7	650.8	650.9
656 Insurance - Vehicle					656.9
657 Insurance - General Liability					657.9
658 Insurance - Workman's Compensation					
659 Insurance - Other	658.5	658.6	658.7	658.8	658.9
660 Advertising Expense					659.9
666 Regulatory Commission Expenses-Amortization of Rate Case					660.9
667 Regulatory Commission Expenses-Other					666.9
670 Bad Debt Expense					667.9
675 Miscellaneous				670.8	

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

<u>.5</u>	<u>.6</u>	<u>.7</u>	<u>.8</u>	<u>.9</u>
Water Treatment-Expenses-Maint.	Trans. & Dist. Expenses	Trans. & Dist. Expenses	Customer Accounts Expenses	Water Admin. & General Expenses
675.5	675.6	675.7	675.8	675.9

WATER OPERATION AND MAINTENANCE EXPENSE ACCOUNTS

CLASS B				
<u>.1</u>	<u>.2</u>	<u>.3</u>	<u>.4</u>	
Source of Supply & Oper. Expenses	Pumping Expenses-Oper.	Pumping Expenses-Maint.	Water Treatment Expense	
601.1	601.2	601.3	601.4	

601 Salaries and Wages - Employees

603 Salaries and Wages - Officers, Directors and Majority Stockholders

604 Employee Pensions and Benefits

610 Purchased Water

615 Purchased Power

616 Fuel for Power Production

618 Chemicals

620 Materials and Supplies

631 Contractual Services-Eng.

632 Contractual Services-Acct.

633 Contractual Services-Legal

634 Contractual Services-Management Fees

635 Contractual Services-Other

641 Rental of Building/Real Property

642 Rental of Equipment

650 Transportation Expense

656 Insurance - Vehicle Liability

657 Insurance - General Liability

658 Insurance - Worker's

635.1

635.2

635.3

641.1

641.2

641.3

642.1

642.2

642.3

650.1

650.2

650.3

650.4

650.5

650.6

650.7

650.8

650.9

650.10

650.11

650.12

650.13

650.14

650.15

650.16

650.17

650.18

650.19

650.20

650.21

650.22

650.23

650.24

650.25

650.26

650.27

650.28

650.29

650.30

650.31

650.32

650.33

650.34

650.35

650.36

650.37

650.38

650.39

650.40

650.41

650.42

650.43

650.44

650.45

650.46

650.47

650.48

650.49

650.50

650.51

650.52

650.53

650.54

650.55

650.56

650.57

650.58

650.59

650.60

650.61

650.62

650.63

650.64

650.65

650.66

650.67

650.68

650.69

650.70

650.71

650.72

650.73

650.74

650.75

650.76

650.77

650.78

650.79

650.80

650.81

650.82

650.83

650.84

650.85

650.86

650.87

650.88

650.89

650.90

650.91

650.92

650.93

650.94

650.95

650.96

650.97

650.98

650.99

650.100

650.101

650.102

650.103

650.104

650.105

650.106

650.107

650.108

650.109

650.110

650.111

650.112

650.113

650.114

650.115

650.116

650.117

650.118

650.119

650.120

650.121

650.122

650.123

650.124

650.125

650.126

650.127

650.128

650.129

650.130

650.131

650.132

650.133

650.134

650.135

650.136

650.137

650.138

650.139

650.140

650.141

650.142

650.143

650.144

650.145

650.146

650.147

650.148

650.149

650.150

650.151

650.152

650.153

650.154

650.155

650.156

650.157

650.158

650.159

650.160

650.161

650.162

650.163

650.164

650.165

650.166

650.167

650.168

650.169

650.170

650.171

650.172

650.173

650.174

650.175

650.176

650.177

650.178

650.179

650.180

650.181

650.182

650.183

650.184

650.185

650.186

650.187

650.188

650.189

650.190

650.191

650.192

650.193

650.194

650.195

650.196

650.197

650.198

650.199

650.200

650.201

650.202

650.203

650.204

650.205

650.206

650.207

650.208

650.209

650.210

650.211

650.212

650.213

650.214

650.215

650.216

650.217

650.218

650.219

650.220

650.221

650.222

650.223

650.224

650.225

650.226

650.227

650.228

650.229

650.230

650.231

650.232

650.233

650.234

650.235

650.236

650.237

650.238

650.239

650.240

650.241

650.242

650.243

650.244

650.245

650.246

650.247

650.248

650.249

650.250

650.251

650.252

650.253

650.254

650.255

650.256

650.257

650.258

650.259

650.260

650.261

650.262

650.263

650.264

650.265

650.266

650.267

650.268

650.269

650.270

650.271

650.272

650.273

650.274

650.275

650.276

650.277

650.278

650.279

650.280

650.281

650.282

650.283

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTS

	.5	.6	.7	.8	.9
Services-Eng.					
632 Contractual	631.5	631.6	631.7	631.8	631.9
Services-					
Acct.					
633 Contractual					
Services-					
Legal					
634 Contractual					
Services-					
Management Fees					
635 Contractual					
Services-					
Other					
641 Rental of					
Building/Real					
Property					
642 Rental of					
Equipment					
650 Transportation					
Expenses					
656 Insurance -					
Vehicle					
657 Insurance -					
General					
Liability					
658 Insurance -					
Worker's					
Compensation					
659 Insurance -					
Other					
660 Advertising					
Expense					
666 Regulatory					
Commission					
Expenses-					
Amortization					
of Rate Case					
Expense					
667 Regulatory					
Commission					
Expenses-					
Other					

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTS

	.5	.6	.7	.8	.9
Water					
Treat.					
Expenses					
-Maint.					
668 Water Resource					
Conservation					
Expense					
670 Bad Debt Expense					
675 Miscellaneous					
Expenses					
(Source: Amended					
JUL 1 1938					
at 22 Ill. Reg.					
effective					

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Certification
- 2) Code Citation: 23 Ill. Adm. Code 25
- 3) Section Number: Adopted Action:
25.65 New Section
- 4) Statutory Authority: 105 ILCS 5/2-3.6
- 5) Effective Date of Rules: June 25, 1998
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rule contain incorporations by reference? The rules do not contain an incorporation by reference under Section 5-75 of the Illinois Administrative Procedure Act.
- 8) Date Filed in Agency's Principal Office: June 22, 1998.
- 9) Notice of Proposal Published in Illinois Register:
March 13, 1998; 22 Ill. Reg. 4562.
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were requested by JCAR, and no agreement letter was issued.
- 13) Will this amendment replace an emergency amendment currently in effect?
Yes; an identical emergency amendment was published at 22 Ill. Reg. 5097 and took effect February 27, 1998.
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This new Section in Part 25 establishes the approval standards for a program leading to alternative certification valid for teaching in the Chicago Public Schools.
- 16) Information and questions regarding this adopted amendment shall be directed to:
J. Robert Sampson
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777-0001
Telephone: (217) 782-2805

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

The full text of the adopted amendment begins on the next page:

STATE BOARD OF EDUCATION
NOTICE OF ADOPTED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER b: PERSONNEL

PART 25
CERTIFICATION

SUBPART A: DEFINITIONS

Section	
25.10	Definition of Terms Used in This Part
SUBPART B: CERTIFICATES	
Section	
25.20	State Elementary School Certificate
25.30	State High School Certificate
25.40	State Special Certificate
25.43	Standards for Certification of Special Education Teachers
25.45	Standards for the Standard Special Certificate--Speech and Language Impaired

25.50	General Certificate
25.60	State Special Certificate, Grades 11-12, For Teaching Elective Subjects
25.65	Alternative Certification
25.70	State Provisional Vocational Certificate
25.75	Part-time Provisional Certificates
25.80	Early Childhood Certificates
25.90	Transitional Bilingual Certificate and Examination
25.95	Majors, Minors, and Separate Fields for the Illinois High School Certificate
25.99	Endorsing Teaching Certificates

SUBPART C: APPROVING THE TEACHER EDUCATION PROGRAMS OF THE
TEACHER EDUCATION INSTITUTIONS OF THE STATE OF ILLINOIS

Section	
25.110	System of Approval: Levels of Approval
25.120	Standards and Criteria for Institutional Recognition and Program Approval
25.130	Procedures for Initial Recognition as a Teacher Education Institution
25.140	Procedures for Approval of New or Modified Teacher Education Programs and Consortia
25.150	The Periodic Review Process

SUBPART D: SCHOOL SERVICE PERSONNEL

STATE BOARD OF EDUCATION
NOTICE OF ADOPTED AMENDMENT

Section	
25.210	Requirements for the Certification of School Social Workers
25.220	Requirements for the Certification of Guidance Personnel
25.230	Requirements for the Certification of School Psychologists
25.240	Standard for School Nurse Endorsement

SUBPART E: REQUIREMENTS FOR THE CERTIFICATION OF
ADMINISTRATIVE AND SUPERVISORY POSITIONS

Section	
25.310	Definitions (Repealed)
25.311	Administrative Certificate
25.315	Renewal of Administrative Certificate
25.320	Application for Approval of Program (Repealed)
25.322	General Supervisory Endorsement
25.330	Standards and Guide for Approved Programs (Repealed)
25.333	General Administrative Endorsement
25.344	Chief School Business Official Endorsement
25.355	Superintendent

SUBPART F: GENERAL PROVISIONS

Section	
25.405	Military Service
25.410	Revoked Certificates
25.415	Credit in Junior College
25.420	Psychology Accepted as Professional Education
25.425	Individuals Prepared in Out-of-State Institutions
25.427	Three-Year Limitation
25.430	Institutional Approval
25.435	School Service Personnel Certificate--Waiver of Evaluations
25.437	Equivalency of General Education Requirements
25.440	Master of Arts NCATE
25.442	Illinois Teacher Corps Programs
25.445	College Credit for High School Mathematics and Language Courses
25.450	Lapsed Certificates
25.455	Substitute Certificates
25.460	Provisional Special and Provisional High School Certificates
25.465	Credit
25.470	Meaning of Experience on Administrative Certificates
25.475	Certificates and Permits No Longer Issued
25.480	Credit for Certification Purposes
25.485	Provisional Recognition of Institutions
25.490	Rules for Certification of Persons Who Have Been Convicted of a Crime
25.493	Part-Time Teaching Interns
25.495	Approval of Out-of-State Institutions and Programs
25.497	Supervisory Endorsements

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

SUBPART G: THE UTILIZATION OF TEACHER AIDES AND
OTHER NONCERTIFIED PERSONNEL

Section	
25.510	Teacher Aides
25.520	Other Noncertificated Personnel
25.530	Specialized Instruction by Noncertificated Personnel
25.540	Approved Teacher Aide Programs

SUBPART H: CLINICAL EXPERIENCES

Section	
25.610	Definitions
25.620	Student Teaching
25.630	Pay for Student Teaching

SUBPART I: ILLINOIS CERTIFICATION TESTING SYSTEM

Section	
25.705	Purpose - Severability
25.710	Definitions
25.715	Test Validation
25.717	Test Equivalence
25.720	Applicability of Testing Requirement
25.725	Applicability of Scores
25.728	Use of Basic Skills Test at Time of Entry into Teacher Education
25.730	Registration
25.732	Late Registration
25.733	Emergency Registration
25.735	Frequency and Location of Examination
25.740	Accommodation of Persons with Special Needs
25.745	Special Test Dates
25.750	Conditions of Testing
25.755	Voiding of Scores
25.760	Passing Score
25.765	Individual Test Score Reports
25.770	Rescoring
25.775	Institution Test Score Reports
25.780	Rees
APPENDIX A	Statistical Test Equating - Certification Testing System

AUTHORITY: Implementing Article 21 and Section 14C-8 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art. 21, 14C-8, and 2-3.6].

SOURCE: Rules and Regulations to Govern the Certification of Teachers adopted September 15, 1977; amended at 4 Ill. Reg. 28, p. 336, effective July 16, 1982; amended at 7 Ill. Reg. 5429, effective April 11, 1983; codified at 8 Ill. Reg. 1441; amended at 9 Ill. Reg. 1046, effective January 16, 1985; amended at 10

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

Ill. Reg. 12578, effective July 8, 1986; amended at 10 Ill. Reg. 15044, effective August 28, 1986; amended at 11 Ill. Reg. 12670, effective July 15, 1987; amended at 12 Ill. Reg. 3709, effective February 1, 1988; amended at 12 Ill. Reg. 16022, effective September 23, 1988; amended at 14 Ill. Reg. 1243, effective January 8, 1990; amended at 14 Ill. Reg. 17936, effective October 18, 1990; amended at 15 Ill. Reg. 17048, effective November 13, 1991; amended at 16 Ill. Reg. 18789, effective November 23, 1992; amended at 19 Ill. Reg. 16826, effective December 11, 1995; amended at 21 Ill. Reg. 11536, effective August 1, 1997; emergency amendment at 22 Ill. Reg. 5097, effective February 27, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. _____, effective _____.

JUN 5 1998

SUBPART B: CERTIFICATES

Section 25.65 Alternative Certification

a) Section 21-5b of the School Code [105 ILCS 5/21-5b] provides for the issuance of provisional alternative teaching certificates and standard alternative teaching certificates, valid for teaching in a district located in a city with a population in excess of 500,000 inhabitants, to eligible candidates, as defined in that Section, who successfully complete a program consisting of:

- 1) a course of study approved by the State Board of Education;
- 2) one year's full-time teaching; and
- 3) a comprehensive assessment of the candidate's teaching performance, culminating in a favorable recommendation by the institution of higher education responsible for the course of study.

b) Proposals seeking to establish programs meeting the specifications of subsection (a) of this Section shall be addressed as follows:

State Board of Education
Alternative Certification Program
100 North First Street
Springfield, Illinois 62777-0001

c) Each proposal shall indicate the maximum number of teaching candidates to be served by the proposed program in each of its sessions.

d) Each proposal, simultaneously with State Board of Education staff's review, will be reviewed by the State Teacher Certification Board, which shall provide its recommendation to the State Board of Education so that the State Board of Education may comply with the timeline set forth in Section 21-5b of the School Code.

e) A proposed course of study will be approved by the State Board of Education if the proposal demonstrates how candidates will acquire the knowledge of the content and the skills equivalent to the content and skills contained in the participating institution's program approved pursuant to Section 25.120 of this Part with regard to:

- 1) educational theory;
- 2) instructional methods; and

STATE BOARD OF EDUCATION
NOTICE OF ADOPTED AMENDMENT

- 3) practice teaching.
f) The assessment of the candidate's teaching performance for the year referred to in this Section shall include components that are designed to demonstrate that the candidate is:
- 1) knowledgeable about specific subject matter and strategies for teaching that subject matter to students with differing needs; and
 - 2) skilled in managing and monitoring students' learning.
- (Source: Added at 22 Ill. Reg. _____, effective _____)

ILLINOIS DEPARTMENT OF HUMAN RIGHTS
NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Procedures Applicable to All Agencies
- 2) Code Citation: 44 Ill. Adm. Code 750
- 3) Section Numbers: Adopted Action:
750.5 Amendment
750.210 Amendment
- 4) Statutory Authority: Implementing Sections 2-105(A) and (C) and 7-101(A) and authorized by Section 7-101(A) of the Illinois Human Rights Act [775 ILCS 5/2-105(A) and (C) and Section 7-101(A)].
- 5) Effective Date of Rulemaking: July 1, 1998
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: July 1, 1998
- 9) Notice of Proposal Published in Illinois Register: March 20, 1998.
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version:
In the first sentence of Section 750.5, changed "these rules" to "this Part".

In Section 750.5, in the definition of number, capitalized "Part".

In Section 750.210 (a), (b) and (d), corrected language of existing text.

In the second to last sentence of Section 750.210(a), deleted "where" and replaced it with "if".

In the last sentence of Section 750.210(a), after the word "or", added the phrase "in all other cases,".

In Section 750.210(c), made the citation a cross-reference and added a list of information which may be contained in reports.

In Section 750.210(g), capitalized "State" and deleted the last word of subsection (g)(1). Further, after subsection (g)(2) added the language:

3) Procedures designated as small purchases pursuant to 30 ILCS 500/20-20;

4) Procedures designated as sole-source pursuant to 30 ILCS 500/20-25;

ILLINOIS DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

and;

- 5) Procedures designated as emergency pursuant to 30 ILCS 500/20-30.

In Section 750.210(h), capitalized "Section".

In Section 750.210, updated the source note.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

- 13) Will this rulemaking replace an emergency rule currently in effect? No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Rulemaking: These amendments clarify the Department's rules and enable the Department to maintain a more accurate and current database of public contractors by requiring periodic re-registration, setting a definite term for a contractor's eligibility, and facilitating the removal of defunct and inactive registrants.

- 16) Information and questions regarding these adopted amendments shall be directed to:

David T. Rothal
Staff Attorney
Illinois Department of Human Rights
100 West Randolph Street
Suite 10-100
Chicago, IL 60601
312-814-6242
T.D.D.: 312-263-1579

The full text of the Adopted Amendment begins on the next page:

ILLINOIS DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT

SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES

CHAPTER X: DEPARTMENT OF HUMAN RIGHTS

PART 750

PROCEDURES APPLICABLE TO ALL AGENCIES

SUBPART A: DEFINITIONS

Section
750.5

Definitions of Terms

SUBPART B: EQUAL OPPORTUNITY CLAUSE

Section
750.10
750.20
750.30
750.40

Clause to be Included in All Contracts
Incorporation by Operation of the Regulation
Subcontracts
Contracts or Subcontracts with Religious Entities

SUBPART C: DUTIES OF PUBLIC CONTRACTORS AND SUBCONTRACTORS

Section
750.110
750.120
750.130
750.140
750.150
750.160
750.170

General
Identification of Underutilization
Affirmative Action Plans
Information and Reports
Recruitment of Employees
Segregated Facilities
Subcontracts

SUBPART D: BIDDING AND COMPLIANCE

Section
750.210
750.220
750.230

Eligibility for Competitively-Bid Public Contracts
Construction Employee Utilization Projection
Compliance Review; Enforcement

APPENDIX A Equal Employment Opportunity Clause

AUTHORITY: Implementing Sections 2-105(A), 7-101(A), and 7-105(A) and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/2-105(A), 7-101(A) and 7-105].

SOURCE: Adopted November 20, 1972 by the Fair Employment Practices Commission; transferred to the Department of Human Rights by P.A. 81-1216, effective July 1, 1980; emergency amendments at 4 Ill. Reg. 39, p. 335, effective September

ILLINOIS DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

in part.

The term "Public Contractor" shall mean any person who bids for or who has been awarded a public contract by a contracting agency either through a competitive bidding procedure or otherwise.

The term "Subcontract" shall mean any agreement, arrangement or understanding, written or otherwise, between a public contractor and any person under which any portion of the public contractor's obligations under one or more public contracts is performed, undertaken or assumed; the term "subcontract", however, shall not include any agreement, arrangement or understanding in which the parties stand in the relationship of an employer and an employee, or between a bank or other financial institution and its customers.

The term "Subcontractor" shall mean any person having a subcontract as defined in this Section.

(Source: Amended at 22 Ill. Reg. 11778, effective 04/01/1998)

Section 750.210 Eligibility for Competitively-Bid Public Contracts

a) The requirements of this Section shall apply to all persons employing fifteen or more individuals at any time during the 365 day period immediately preceding the date of filing. No such person shall be eligible to be awarded a contract subject to the competitive-bidding requirements of the Illinois Purchasing Act (Ill. Rev. Stat. ch. 127 par. 132.1 et seq. as hereafter amended) by a State agency, as defined in the Illinois Procurement Code [30 ILCS 500/1-15.100], unless such person prior to bid opening has filed with the Department a properly completed and sworn Employer Report Form (Form PC-1, also known as IL 442-0010) or holds a valid Number which is currently valid. Such filing with the Department must take place prior to bid opening, if a bidding or competitive selection procedure is required under the Illinois Procurement Code [30 ILCS 500/1-1], or in all other cases, contract award. An Employer Report Form shall be deemed filed when it is received, in the Department's Chicago office, properly completed and signed.

b) Each person who files submits such a form to the Department in compliance with this Section shall promptly be issued a bid Number number as evidence of its eligibility to bid on, or be awarded, public contracts. Such form and number Number shall remain currently valid until such time expire five years from the date of issue, without further notice to the person. At any time prior to the expiration date, as the Department may suspend or revoke the Number eligibility in accordance with the Act or this Part, or require its renewal. Such Number shall also expire upon dissolution, sale, or merger of the

ILLINOIS DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

17, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 1627, effective February 9, 1981; codified at 8 Ill. Reg. 17889; amended at 22 Ill. Reg. 11777, effective 04/01/1998.

SUBPART A: DEFINITIONS

Section 750.5 Definitions of Terms

Where used in this Part, unless the context otherwise clearly requires:

The term "Act" shall mean the Illinois Human Rights Act [775 ILCS 5] (Ill. Rev. Stat. 1983, ch. 68, par. 1-101 through 1-107).

The term "Construction Contract" shall mean any public contract as defined in this Section, for the rehabilitation, alteration, conversion, extension, landscaping, repair, maintenance or other improvements of buildings, highways or other real property.

The term "Contracting Agency" shall mean any office, department, board, agency, commission, institution or other entity of the State, any of its political subdivisions or municipal corporations, who may enter into any public contract.

The term "Department" shall mean the Department of Human Rights.

The term "Director" shall mean the Director of the Department or a duly authorized designee.

The term "Eligible Bidder" shall have the same meaning as in Section 2-101(J) of the Act [775 ILCS 5/2-101(J)].

The term "Number" shall mean an Illinois Department of Human Rights Eligibility Number provided pursuant to Section 750.210 of this Part.

The term "Person" shall have the same meaning as prescribed in Section 1-103 of the Act.

The term "Public Contract" shall mean any contract, purchase order, lease, or other agreement or understanding, written or otherwise, between the State of Illinois, any of its political subdivisions or municipal corporations or any agent thereof and any other person, for the procurement of any thing or service of value, such as for example any real or personal property, equipment, merchandise, goods, materials, labor or services for or by the State, such political subdivision or municipal corporation; and further means any loan or grant by the State of Illinois, any of its political subdivisions or municipal corporations from which such a contract, purchase order, lease, or other agreement or understanding may be financed in whole or

ILLINOIS DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

Public contractor or eligible bidder.

- c) If the Department finds that a public contractor or eligible bidder is underutilizing minorities and/or women in any job classification, as defined in Section 750.120 of this Part, it shall require the submission of an acceptable affirmative action plan. After submitting an acceptable plan, the contractor shall file an Affirmative Action Progress Report (Form PG-4) at least semi-annually until such time as the Department finds that underutilization is no longer evident.
- 1) After submitting an acceptable plan, the contractor or eligible bidder shall file such reports as the Department may require to document the contractor's or its progress under the plan. The Department may require that such reports contain information that includes, but is not limited to, the contractor's or eligible bidder's:

- A) identification of underutilization (as required in Section 750.120 of this Part);
- B) hiring and promotional goals and timetables;
- C) personnel policies and procedures;
- D) personnel outreach and recruitment efforts;
- E) personnel transactions (including hires, promotions, discharges, layoffs, and disciplinary actions);
- F) employee compensation and benefits;
- G) sexual harassment prevention policies and procedures;
- H) allegations of unlawful discrimination (as defined in Section 750.110(a) of this Part); and
- I) compliance with any specific commitments made by the contractor or eligible bidder in its plan.

- 2) The Department may require a contractor or eligible bidder to file such reports until such time as the underutilization has been eliminated, but no more than quarterly.

- d) A public contractor or an eligible bidder may voluntarily relinquish its eligibility status Number by so notifying the Department in writing addressed to the Department's Chicago office. Each public contractor or eligible bidder shall be responsible for promptly notifying the Department in writing of any change of address or other information which may be necessary for the Department to readily contact it.

- e) A public contractor or an eligible bidder which cannot be located by the Department or which does not respond to a written inquiry sent to its last known address, or which does not respond to a notice published in the Illinois Procurement Bulletin (see 30 ILCS 500/15-11, and/or in other publications of general circulation, may be deemed to have relinquished its eligibility status Number.

- f) Upon the written request of a contracting agency, which request shall state the reasons therefor, the Department may exempt any person from the requirements of subsection (a) of this Section when it deems that exceptional circumstances and the public interest so require. Such exemption shall be granted for a specified purpose and duration but

ILLINOIS DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

may be withdrawn by the Department at any time; provided however, that such withdrawal of exemption shall not apply to contracts awarded prior to the withdrawal.

- g) The requirements of subsection (a) of this Section shall not apply to:
- 1) State agencies, boards, and commissions required to file affirmative action plans with the Department pursuant to 56 Ill. Adm. Code 2520.710;
 - 2) persons located wholly outside the territorial boundaries of the United States and who have no employees in the United States and will not hire employees in the United States to perform any part of any public contract;
 - 3) procurements designated as small purchases pursuant to 30 ILCS 500/20-20;
 - 4) procurements designated as sole-source pursuant to 30 ILCS 500/20-25; and
 - 5) procurements designated as emergency pursuant to 30 ILCS 500/20-30.
- h) Beginning July 1, 1998, persons covered under this Section may obtain forms required to apply for Numbers by writing to the Public Contracts Unit, Department of Human Rights, 100 W. Randolph Street, Suite 10-100 Chicago, IL, 60601 or by accessing the Department's website at www.state.il.us/dhr. Persons who are hearing-impaired may also contact the Department by TDD at 312-263-1579.
- i) All Numbers issued by the Department or the Illinois Fair Employment Practices Commission between February 1, 1973, and June 30, 1998, shall expire on August 31, 1999.

(Source: Amended at 22 Ill. Reg. _____, effective 11/31/1998)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Camping on Department of Natural Resources Properties

- 2) Code Citation: 17 Ill. Adm. Code 130

- 3) Section Numbers: Adopted Action:

130.30 Amendments

130.70 Amendments

130.80 Amendments

130.90 Amendments

130.140 Amendments

- 4) Statutory Authority: Implementing and authorized by Sections 1, 4(1) and (5) of the State Parks Act [20 ILCS 835/1, 4(1) and (5)], and by Sections 63a23 and 63a28 of the Civil Administrative Code of Illinois [20 ILCS 805/63a23 and 63a28].

- 5) Effective Date of Rulemaking: June 24, 1998

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this rulemaking contain incorporations by reference? No

- 8) Date filed in Agency's Principal Office: June 24, 1998

- 9) Notice of Proposal Published in Illinois Register: April 10, 1998, 22 Ill. Reg. 6428

- 10) Has JCAR issued a Statement of Objections to these rules? No

- 11) Difference(s) between proposal and final version:

Authority Note - added a comma following "835/1" and removed "and" following "835/1"

130.70(a)(1)(I) - capitalized "tent" in "Rent-A-Camp tent"

130.70(a)(1)(J) - capitalized "cabins" in "Rent-A-Camp cabins"

130.70(a)(1)(J) - ", electricity" was deleted.

130.70(a)(1)(K) - a comma was added following "fees"; "reservation" was added following "refundable"; a comma was added following "fee" and "campsite reservations" was changed to "campsites"

130.140(e) - "ten (10)" was changed to "10" and "department" was capitalized

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

- 13) Will this rulemaking replace an emergency rule currently in effect? No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Rulemaking: This Part is being amended to add information on Cabin Camp; add information on Rent-A-Camp Cabin areas; add language regarding the Department's check-in and check-out policies; and add language on the Department's pet and smoking policies.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price
Department of Natural Resources
524 S. Second Street, Room 430
Springfield, IL 62701-1787
217/782-1809

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER a: LANDS

PART 130

CAMPING ON DEPARTMENT OF NATURAL RESOURCES PROPERTIES

Section	Location
130.10	Purpose of Campground
130.20	Classification of Camps by Equipment Used - Definitions
130.30	Definition of a Camp
130.40	Registrations
130.50	Permits, Extensions and Time Limits
130.60	Fees and Charges
130.70	Refunds
130.80	Check-in and Check-out Times
130.90	Unoccupied Camps
130.100	Vehicles per Camp (Refer to 17 Ill. Adm. Code Section 130.30)
130.110	Youth Group (Boy Scouts, Girl Scouts, Explorers, church groups, or others)
130.120	Organization Group Camps (charter organizations, ROTC, private clubs or others)
130.130	Campground Host Program
130.135	Use of Campground
130.140	Eviction

AUTHORITY: Implementing and authorized by Sections 1, 4(1) and (5) of the State Parks Act [20 ILCS 835/1, 4(1) and (5)], and by Sections 63a23 and 63a28 of the Civil Administrative Code of Illinois [20 ILCS 805/63a23 and 63a28].

SOURCE: Adopted at 4 Ill. Reg. 7, p. 110, effective February 4, 1980; emergency amendment at 5 Ill. Reg. 5707, effective June 1, 1981 for a maximum of 150 days; codified at 5 Ill. Reg. 10623; amended at 5 Ill. Reg. 14568, effective December 9, 1981; amended at 6 Ill. Reg. 3840, effective March 31, 1982; amended at 6 Ill. Reg. 9626, effective July 21, 1982; amended at 6 Ill. Reg. 14835, effective November 24, 1982; amended at 7 Ill. Reg. 5870, effective April 22, 1983; amended at 8 Ill. Reg. 5647, effective April 16, 1984; amended at 9 Ill. Reg. 6173, effective April 23, 1985; amended at 9 Ill. Reg. 11594, effective July 16, 1985; amended at 10 Ill. Reg. 9777, effective May 21, 1986; amended at 10 Ill. Reg. 13244, effective July 28, 1986; amended at 11 Ill. Reg. 9506, effective May 15, 1987; amended at 14 Ill. Reg. 12402, effective July 20, 1990; emergency amendment at 16 Ill. Reg. 7925, effective May 11, 1992, for a maximum of 150 days; emergency expired October 8, 1992; amended at 16 Ill. Reg. 15982, effective October 2, 1992; amended at 18 Ill. Reg. 1126, effective January 18, 1994; amended at 19 Ill. Reg. 6462, effective April 28, 1995; amended at 20 Ill. Reg. 6683, effective May 6, 1996; amended at 21 Ill. Reg. 9034, effective June 26, 1997; amended at 22 Ill. Reg. 3076, effective January

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

23, 1998; amended at 22 Ill. Reg. _____, effective _____,
JUN 4 1998

Section 130.30 Classification of Camps by Equipment Used - Definitions

- a) Tent Camp - any camp using a fabric-type shelter erected on the ground, and not a part of a trailer unit as the basic unit that has been transported to the camp site by a motor vehicle.
- b) Trailer Camp - any camp which has a trailer, of not more than 40 feet in total overall length including any extensions forward or backward beyond the living quarters, as the basic shelter unit. This includes tent trailers, the standard travel trailer, or boats mounted on a trailer and used as the basic shelter unit.
- c) Vehicle Camp - any camp using a vehicle as the basic shelter unit. This includes converted buses, manufactured camper buses, and automobiles, of not more than 40 feet in total overall length, when used as the main sleeping and shelter unit of the camp.
- d) Primitive Camp - any camp using a shelter carried to a site via bicycle, canoe, horse or on the back of a camping member.
- e) Group Organization Camp - any camp using any one or combination of the various types of shelter when the camping group makeup qualifies as an organization camp, according to Sections 130.120 and 130.130.
- f) Boat Camp - any camp using a boat which is anchored off the area shore or tied on Department water frontage for shelter and sleeping. When the boat is placed on a camp site and used as a basic unit of the camp, it will then be classified as a trailer camp (subsection (b) above).
- g) Cabin Camp - any camp using a wooden-type shelter erected on a concrete pad as a permanent structure and within a campground.

(Source: Amended 1998 at 22 Ill. Reg. _____, effective JUN 4 1998)

Section 130.70 Fees and Charges

- a) The full amount of the camping fee and, if applicable, the utility fee shall be collected at the time the permit is issued. If checks are taken, they shall be made payable to the Illinois Department of Natural Resources and the site identified. Camping fees vary in accordance with the degree of campground development and type of facilities available effective May 11, 1992 as follows:
 - 1) Spring - Summer Camping (May 1 through September 30)
 - A) Class A Sites: Camping fee of \$8.00 per night per site, \$3.00 utility fee. Sites having availability to showers, electricity and vehicular access.
 - B) Class B-E Sites: Camping fee of \$7.00 per night per site, \$3.00 utility fee. Sites having availability to electricity and vehicular access.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- C) Class B-S Sites: Camping fee of \$8.00 per night per site. Sites having availability to showers and vehicular access.
- D) Class C Sites: Camping fee of \$7.00 per night per site. Sites having vehicular access or tent camp/primitive sites (walk-in or backpack) having availability to showers.
- E) Class D Sites: Camping fee of \$6.00 per night per site. Tent camping or primitive sites (walk-in or backpack) with no vehicular access.
- F) Youth Group Camping: \$1.00 per person, minimum daily camping fee of \$10.00.
- G) Adult Group Camping: \$3.00 per person, minimum daily camping fee of \$30.00.
- H) Each member of an organized group utilizing facilities furnished at Dixon Springs State Park and Pere Marquette State Park shall pay a fee of \$4.00 per night. At Dixon Springs, a deposit of \$40.00 will be required before confirmation of a reservation. At Pere Marquette, a deposit of \$100 will be required before confirmation of a reservation. The deposits will be credited to the total camping fee. Fees for day use of the group camps at Dixon Springs and Pere Marquette shall be \$45.00 per day.
- I) Rent-A-Camp Sites will be made available at designated state parks and recreational areas throughout the department's statewide system. Rent-A-Camp Tent These--designated areas will provide, at additional fees of \$8.00 and \$12.00 per night, one large tent (approximately 10' x 13') or one extra large tent (approximately 14' x 14'), respectively (erected), with wood floor, one charcoal grill, one picnic table, one trash barrel, and either 4 sleeping cots per large tent or 8 sleeping cots per extra large tent. The total overnight fee for a rent-a-camp will be based on the basic fees given of \$8.00 or \$12.00 per night in addition to the fee for the class of the camping site A through D on which the rent-a-camps are located, as follows:
- i) Rent-A-Camp Tent at Class A Sites:
 \$16.00 or \$20.00 plus \$3.00 utility fee per night per site at all sites having availability to showers, electricity and vehicular access.
 - ii) Rent-A-Camp Tent at Class B-E Sites:
 \$15.00 or \$19.00 plus \$3.00 utility fee per night per site at all sites having availability to electricity and vehicular access.
 - iii) Rent-A-Camp Tent at Class B-S Sites: \$16.00 or \$20.00 per night per site at all sites having availability to showers and vehicular access.
 - iv) Rent-A-Camp Tent at Class C Sites:
 \$15.00 or \$19.00 per night per site at all sites having vehicular access.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- v) Rent-A-Camp Tent at Class D Sites:
 \$14.00 or \$18.00 per night per site at all sites having tent camping or primitive sites (walk-in or backpack) with no vehicular access.
- J) Rent-A-Camp Cabin areas will provide, at an additional fee of \$24.00 per night, one two-bedroom cabin with two bunk beds, one full-sized bed, ceiling fan, electric heater, drop leaf table with two chairs, one charcoal grill, one picnic table, and one trash barrel. The total overnight fee for a Rent-A-Camp Cabin will be based on the basic fee of \$24.00 per night in addition to the fee for the class of the camping site on which the Rent-A-Camp Cabins are located, as follows:
- Rent-A-Camp Cabins at Class A Sites:
 \$24.00 cabin rental plus \$3.00 utility fee and \$8.00 camping fee per night, per site at all sites having availability to showers and vehicular access.
- K) A \$5.00 per campsite non-refundable fee must be remitted at those facilities offering reservation services. This fee applies to reservations for group camp sites as well as individual site reservations and individual Rent-A-Camp Cabin reservations. At Starved Rock State Park, the reservation fee shall be the applicable first night's camping and utility fee in addition to the \$5.00 per campsite non-refundable fee and is required at the time reservations are made for individual campsite reservations. The Rent-A-Camp Cabin reservation fee for each cabin will be the applicable first night's cabin rental, camping and utility fees, in addition to the \$5.00 per campsite non-refundable reservation fee, and is required at the time reservations are made for individual Rent-A-Camp Cabin campsites.
- 2) Fall - Winter Camping (October 1 through April 30)
- A) As long as buildings, water and electrical service are available, regardless of the date, the regular camping fee will apply.
 - B) When cold weather requires closing down buildings and shutting off water in Class A campgrounds, the fee shall be reduced commensurate with the services and facilities available for use.
 - C) The fee for primitive campsites shall be \$6.00 per site. When a change in facilities is made and a campsite is reclassified, the fee for a site will change automatically.
- b) Exceptions: Employees, Concessionaires, and Special Legislation
- 1) Except for temporary employees of the Department of Natural Resources who qualify and are placed in the campground host program at approved camping sites, employees of the Department of Natural Resources or any other State agency, regardless of their

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

official status, will be required to pay the established camping fee.

- 2) The concessionaire, manager, or a responsible employee designated by the concessionaire will not be charged the regular camping fee. Rent will be paid at the rate established by the Department or pursuant to the concession lease.
- 3) An Illinois resident age 62 or older, or a person who has a Class 2 disability as defined in Section 4A of the Illinois Identification Card Act [15 ILCS 335/4A] or a disabled veteran, or a former prisoner of war as defined in Section 5 of the Department of Veterans Affairs Act [20 ILCS 2805/5], is entitled to the following camping fee provisions, upon qualifying, which will allow the spouse or minor (under 18) children, or minor grandchildren to be included in the camping party. All other members must be registered and pay the regular camping fee for the facilities provided.

A) Illinois residents age 62 or older will be charged one-half the established camping fee on any Monday, Tuesday, Wednesday or Thursday, at Class A and B sites but must pay the entire established camping fee on all sites on any Friday, Saturday or Sunday, and, if at a site with utilities, must pay the entire utility fee for each day of camping. Verification of age may be made by any document required by law to establish proof of age and date of birth and issued by a federal or state governmental agency. No fee on Class C and D sites Monday through Thursday.

B) Illinois residents who have a Class 2 disability and present a current Illinois Disabled Person Identification Card issued by the Secretary of State will be charged one-half the established camping fee for Class A and B sites on any Monday, Tuesday, Wednesday, or Thursday, but must pay the entire established camping fee for any Friday, Saturday or Sunday, and, if at a site with utilities, must pay the entire utility fee for each day of camping. No fee on Class C and D sites.

C) An Illinois resident who is a disabled veteran, or former prisoner of war may camp without being charged a camping fee, but if at a site with utilities, must pay the entire utility fee for each day of camping. An individual wishing to qualify for free camping under the provisions stated above must be able to submit the appropriate document issued by the Illinois Department of Veterans' Affairs (see 20 ILCS 2805/5).

(Source: Amended at 22 Ill. Reg. 11781, effective JUN 24 1998)

Section 130.80 Refunds

(Source: Amended at 22 Ill. Reg. 11781, effective

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- a) A refund of camping and utility fees for unused time shall be made upon the request of the registered camper. No personal check refunds shall be made sooner than 10 days after the check has been deposited to insure clearance. Refunds will be made in the field out of current cash receipts. Refunds for Camper's Permit will be prepared and appropriate copies submitted to accounting.
- b) Refund forms must be completed whenever a camper requests a refund for the unused portion of this camping permit.
- c) The person requesting the refund must show identification at the time of the refund.
- d) The camper's copy of the permit must be surrendered at the time of the refund.
- e) Rent-A-Camp reservation deposits will not be refunded by the Department.
- f) No refunds will be made for reservation fees unless the campground is closed by the Department.
- g) The deposit required for organized group camps at Pere Marquette and Dixon Springs will be non-refundable unless notice of cancellation is received by 30 days prior to reservation date.
- h) There is no refund of the first night's cabin fee or camping and utility fee made as part of a campsite reservation that is canceled less than 3 days prior to the date of arrival.

(Source: Amended at 22 Ill. Reg. 11781, effective JUN 24 1998)

Section 130.90 Check-in and Check-out Times

- a) Check-in times are normally from 7:00 a.m. until 10:00 p.m. Late check-in will be allowed providing camping space is available, when site staff is available or to help avert emergencies. Rent-A-Camp Cabins may not be available for occupancy until 3:00 p.m. due to additional time needed to clean units.
- b) Check-out time is 3:00 p.m., with the exception of Rent-A-Camp Cabins which is 11:00 a.m.

1) If a camper has checked out and desires to remain in the area for other purposes after the check-out time, he must break camp and move from the campground.

2) The camper shall remove all personally owned camping equipment from the campground at the time the camper leaves.

3) Failure to remove camping equipment by 3:00 p.m. (or by 11:00 a.m. for Rent-A-Camp Cabins) without specific authorization by Department of Natural Resources' staff shall obligate the camper to pay an additional night's fees. The camper may elect to stay the additional night if such use does not violate time limits and if space is available.

(Source: Amended at 22 Ill. Reg. 11781, effective

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

Section 130.140 Use of Campground

- a) Campsites shall not be used for large group gatherings or parties.
- b) The use of a registered motor vehicle in a campground is only for the purpose of establishing a camp and for transportation in and out of the campground.
- c) Quiet hours shall prevail in the campground between 10:00 p.m. and 7:00 a.m. Generators, machinery or mechanical equipment, including radios, C.B.'s, phonographs or television devices shall not emit sound or light outside the individual's immediate campsite or pad after 10:00 p.m. or before 7:00 a.m. daily that would be disturbing to other campers. No person shall at any time use outside electronic equipment or electrical speakers at a volume which emits sound beyond the immediate camp or picnic site without specific permission of the Site Superintendent.
- d) Fires are allowed in stoves or designated areas only. Large bonfires are not permitted without permission of the Site Superintendent.
- e) Pets - The camper is responsible for all dogs, cats or other small animals under his ownership or care. No pets will be allowed in the interior of Rent-A-Camp Cabins. All animals must be on a leash not to exceed ten-4 10+ feet. All leashed animals shall be at all times under the direct control of the owner or person designated by the owner. Animals are not to be left unattended. Owners are responsible to make sure that their animal(s) do not cause a nuisance to other campers as determined by Department department personnel. Excrement of these pets shall be removed from the campsite by the owner. Disposal shall be made directly into a department garbage container with tight fitting lid, or excrement shall be placed in a water tight bag that has been closed or a water tight container with lid closed and placed in a department trash receptacle.
- f) Smoking - Smoking is not allowed in cabins designated as no smoking.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

- 1) Heading of the Part: Nonmethane Organic Compounds
- 2) Code Citation: 35 Ill. Adm. Code 220
- 3)

Section Number	Adopted Action
220.100	New
220.110	New
220.120	New
220.130	New
220.200	New
220.210	New
220.220	New
220.230	New
220.240	New
220.250	New
220.260	New
220.270	New
220.280	New
220.290	New
- 4) Statutory Authority: 415 ILCS 5/4, 9.1, 27 and 28.5.
- 5) Effective Date of Amendments: July 31, 1998.
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? Yes, see Section 220.130. All incorporations are pursuant to Section 5-75 of the Illinois Administrative Procedure Act.
- 8) Date filed in Board's principal office: June 17, 1998.
- 9) Notice of proposal published in Illinois Register: 22 Ill. Reg. 6466 (April 10, 1998).
- 10) Has JCAR issued a statement of objection to these rules? No.
- 11) Differences between proposal and final version: The proposal contained a definition for the term "closed landfill." The final version changed the term "closed landfill" to "inactive landfill." One substantive change was made in Section 220.270(e), by replacing the word "may" with "must" regarding the requirement for resumed monitoring. Other minor editorial changes were made.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreement letter issued by JCAR? No agreement letter was issued by JCAR.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- 13) Will these amendments replace an emergency rule currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and purpose of amendments: A more detailed discussion of these rules appears in the Board's June 17, 1998, opinion and order in Docket R98-28. The primary purpose of this new Part 220 and related amendments to Part 201 is to establish a program for the regulation of emissions of non-methane organic compounds from certain existing municipal solid waste landfills. The regulations are required by the Clean Air Act Amendments of 1990 (42 U.S.C. 7401-76719 (1990)).

- 16) Information and questions regarding the adopted amendments shall be directed to:

Catherine F. Glenn, Attorney
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312-814-6923

Requests for copies of the rules or the Board's June 17, 1998, opinion and order should be addressed to Victoria Agyeman, at 312-814-3620 or at the above address and should reference Docket R98-28.

The full text of the Adopted Rules begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER C: EMISSION STANDARDS AND LIMITATIONS FOR STATIONARY SOURCES

PART 220

NONMETHANE ORGANIC COMPOUNDS

SUBPART A: GENERAL PROVISIONS

Section	Purpose
220.100	Definitions
220.110	Abbreviations
220.120	Incorporations by Reference
220.130	

SUBPART B: MSW LANDFILLS

Section	Applicability
220.200	Compliance Requirements and Schedule
220.210	Gas Collection System Requirements
220.220	Gas Control System Requirements
220.230	Compliance Procedures for Gas Collection Systems
220.240	Operational Standards for Collection and Control Systems
220.250	Test Methods and Procedures
220.260	Monitoring of Operations
220.270	Reporting Requirements
220.280	Recordkeeping Requirements
220.290	

AUTHORITY: Implementing and authorized by Sections 4, 9.1, 27, and 28.5 of the Illinois Environmental Protection Act [415 ILCS 5/4, 9.1, 27, and 28.5].

SOURCE: Adopted in R98-28 at 22 Ill. Reg. _____, effective JUL 31 1998.

NOTE: In this Part, unless the context clearly indicates otherwise, superscript numbers or letters are denoted by parentheses and subscript are denoted by brackets

SUBPART A: GENERAL PROVISIONS

Section 220.100 Purpose

This Part contains emission control requirements for municipal solid waste (MSW) landfills in accordance with section 111(d) and subpart B of the Clean Air Act.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

Section 220.110 Definitions

The definitions in this Section apply only to the provisions of this Part. Unless otherwise defined herein and unless a different meaning of a term is clear from its context, the definitions of terms used in this Part shall have the meanings specified by 35 Ill. Adm. Code 201.102, 211, and 810.103.

"Active collection system" means a gas collection system that uses gas mover equipment.

"Active landfill" means a landfill in which solid waste is being placed or a landfill that is planning to accept waste in the future.

"Commercial waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding household and industrial wastes.

"Controlled landfill" means any landfill at which collection and control systems are required under this Part as a result of the NMOC emission rate. The landfill is considered controlled at the time an application for a construction permit for a collection and control system is submitted to the Agency in compliance with Sections 220.220 and 220.230 of this Part.

"Design capacity" means the maximum amount of solid waste a landfill can accept, as indicated in terms of volume or mass, as specified in the permit(s) issued pursuant to Section 21(d) of the Act for the source plus any in-place waste not accounted for in the permit(s); if no design capacity is specified in a permit, then the design capacity shall be calculated using good engineering practices; or if the landfill is closed pursuant to the applicable regulations in 35 Ill. Adm. Code-Subtitle G, the actual capacity specified in the closure plan. If the owner or operator chooses to convert the design capacity from volume to mass or from mass to volume to demonstrate its design capacity is less than 2.5 million Mg or 2.5 million m(3), the calculation must include a site-specific density, which must be recalculated annually.

"Disposal facility" means all contiguous land and structures, and improvements on the land used for the disposal of solid waste. Portions of the disposal facility may be separated by access roads.

"Emission rate cutoff" means the threshold annual emission rate to which a landfill compares its estimated emission rate to determine if control under this Part is required.

"Enclosed combustor" means an enclosed firebox. Examples include, but are not limited to, an enclosed flare, a boiler, and an internal

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

combustion engine.

"Flare" means an open combustor without enclosure or shroud.

"Gas mover equipment" means the equipment (i.e., fan, blower, compressor) used to transport landfill gas through the header system.

"Household waste" means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including, but not limited to, single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). (Section 3.89 of the Act)

"Inactive landfill" means a landfill in which solid waste is no longer being placed, and that is no longer permitted to accept waste under Section 21 of the Act or has a federally enforceable permit condition prohibiting the acceptance of additional waste. If an inactive landfill is subsequently permitted to accept additional waste and additional solid waste is placed in the landfill, the landfill is no longer inactive.

"Industrial waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under Subtitle C of RCRA, 40 CFR 264 and 265. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

"Interior well" means any well or similar collection component located inside the perimeter of the landfill. A perimeter well located outside the landfilled waste is not an interior well.

"Landfill" means an area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, or an underground injection well. For the purposes of this Part, landfills include waste piles.

"Lateral expansion" means a horizontal expansion of the waste boundaries of an existing MSW landfill. A lateral expansion is not a modification for the purposes of filing an amended design capacity report pursuant to Section 220.210(a) of this Part, unless it results in an increase in the design capacity of the landfill.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

"Modification" means an increase in the permitted volume design capacity of the landfill by either horizontal or vertical expansion.

"Municipal solid waste (MSW)" means household waste.

"Municipal solid waste (MSW) landfill" means an entire disposal facility or landfill in a contiguous geographical space where household waste is placed in or on land. An MSW landfill may also receive other types of RCRA Subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of an MSW landfill may be separated by access roads. An MSW landfill may be publicly or privately owned or operated.

"Municipal solid waste (MSW) landfill emissions" means gas generated by decomposition of organic waste deposited in an MSW landfill or derived from the evolution of organic compounds in the waste.

"Nondegradable waste" means any waste that does not decompose through chemical breakdown or microbiological activity. Examples include, but are not limited to, concrete, municipal waste combustor ash, and metals.

"Nonmethane organic compounds (NMOC)" means nonmethane organic compounds, as measured according to the provisions of Section 220.260 of this Part.

"Passive collection system" means a gas collection system that uses solely positive pressure within the landfill to move the gas rather than using gas mover equipment.

"Putrescible waste" means a solid waste that contains organic matter capable of being decomposed by microorganisms so as to cause a malodor, gases, or other offensive conditions, or which is capable of providing food for birds and vectors. Putrescible wastes may form a contaminated leachate from microbiological degradation, chemical processes, and physical processes. Putrescible waste includes, but is not limited to, garbage, offal, dead animals, general household waste, and commercial waste. All solid wastes that do not meet the definitions of inert or chemical wastes shall be considered putrescible wastes.

"Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, exclusive of the treated effluent from a wastewater treatment plant.

"Solid waste" means a waste that is defined as an inert waste, as a

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

putrescible waste, as a chemical waste or as a special waste, and which is also not defined as a hazardous waste pursuant to 35 Ill. Adm. Code 721.

"Sufficient density" means any number, spacing, and combination of collection system components, including vertical wells, horizontal collectors, and surface collectors, necessary to maintain emission and migration control as determined by measures of performance set forth in this Part.

"Sufficient extraction rate" means a rate sufficient to maintain a negative pressure at all wellheads in the collection system without causing air infiltration, including any wellheads connected to the system as a result of expansion or excess surface emissions, for the life of the blower.

Section 220.120 Abbreviations

Act	Illinois Environmental Protection Act
Agency	Illinois Environmental Protection Agency
Board	Illinois Pollution Control Board
°C	degrees Celsius or centigrade
cm	centimeters
CAAPP	Clean Air Act Permit Program
°F	degrees Fahrenheit
hr	hours
m	meters
m(3)	cubic meters
Mg	megagrams
mmBtu	million British thermal units
MSW	municipal solid waste
MW	megawatt; 1 million watts
NMOC	nonmethane organic compounds
NOx	nitrogen oxides
ppmv	parts per million by volume
RCRA	Resource Conservation and Recovery Act
SIP	State Implementation Plan
USEPA	United States Environmental Protection Agency
VOC	volatile organic compounds
VOM	volatile organic material
yr	years

Section 220.130 Incorporations by Reference

The following materials are incorporated by reference. These incorporations by reference do not include any later amendments or editions.

- a) Section 4 of Method 2E: Determination of Landfill Gas; Gas Production

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- Flow Rate, 40 CFR 60, Appendix A (61 Fed. Reg. 9929 (March 12, 1996)).
- b) Method 25C: Determination of Nonmethane Organic Compounds (NMOC) in MSW Landfill Gases, 40 CFR 60, Appendix A (61 Fed. Reg. 9929 (March 12, 1996)).
- c) Compilation of Air Pollutant Emission Factors (AP-42) the Technical Support Division of OAQPS, EPA, MD-14, Research Triangle Park, NC 27711 (1997).
- d) Sections 3, 3.1.3, 4.2, 4.3.1, and 4.4 of Method 21 of Appendix A, 40 CFR 60 (1997).
- e) Method 3C, Appendix A, 40 CFR 60 (1997).
- f) Method 3A, Appendix A, 40 CFR 60 (1997).
- g) Method 18, Appendix A, 40 CFR 60 (1997).
- h) General Control Device Requirements, 40 CFR 60.18 (1997).

SUBPART B: MSW LANDFILLS

Section 220.200 Applicability

- a) Except as provided in subsection (b) of this Section, an owner or operator of an MSW landfill for which construction or modification commenced before May 30, 1991, is subject to the requirements of this Subpart if the landfill has accepted waste at any time since November 8, 1987, or has additional design capacity available for future waste deposition.
- b) Any MSW landfill that commenced construction, reconstruction or modification on or after May 30, 1991, is subject to the requirements of 40 CFR 60, Subpart WWW, in lieu of the requirements of this Part.

Section 220.210 Compliance Requirements and Schedule

- a) Each owner or operator of an MSW landfill having a design capacity less than 2.5 million Mg by mass or 2.5 million m³ by volume shall submit an initial design capacity report to the Agency as provided in Section 220.280(a) of this Subpart. The owner or operator may calculate design capacity in either Mg or m³ for comparison with the exemption values. Any density conversions shall be documented and submitted with the report. If the landfill is subsequently modified, then the owner or operator shall submit to the Agency an amended design capacity report as provided for in Section 220.280(a)(3) of this Subpart. Submittal of an initial design capacity report and, if applicable, an amended design capacity report shall fulfill the requirements of this Subpart. Pursuant to Section 220.200(b) of this Subpart, modification of an MSW landfill will subject it to the requirements of 40 CFR 60, Subpart WWW.
- b) An owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million Mg and 2.5 million m³ shall submit an initial design capacity report and initial emissions rate report to the Agency, as provided in Section 220.280(a) and (b) of this Subpart,

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- and comply with either subsection (c) or (d) of this Section.
- c) For MSW landfills with an NMOC emissions rate less than 50 Mg/yr, the owner or operator shall:
- 1) Submit an emission rate report, as provided by Section 220.280(b) of this Subpart, to the Agency; and
 - 2) Recalculate the NMOC emission rate using the procedures specified in Section 220.260(a) of this Subpart until such time as the calculated NMOC emission rate is equal to or greater than 50 Mg/yr, at which time the provisions of subsection (d) of this Section shall apply, or the landfill is inactive.
- d) For MSW landfills with emissions equal to or greater than 50 Mg/yr, calculated pursuant to Section 220.260(a) of this Subpart, within 30 months after the date when the first annual NMOC emission rate report equals or exceeds 50 Mg/yr, an owner or operator shall:

- 1) Install and operate:
 - A) A gas collection and control system meeting the gas collection system and control requirements of Sections 220.220 and 220.230 of this Subpart; or
 - B) An alternate gas collection and control system using alternate procedures for gas collection and control, determining compliance, monitoring, operation, testing, recordkeeping, or reporting instead of those provided for in this Subpart, as approved by the Agency or Board, as meeting the requirements in Section 220.220(d) or (e), or Section 220.230(d) or (e) of this Subpart. Such alternate system shall be effective only when included in a federally enforceable permit or approved as a SIP revision.
- 2) Certify compliance: Within 6 months of initial startup or upon change in method of compliance, or by October 31, 2001, whichever is later, the owner or operator of an MSW landfill subject to the control requirements of this Subpart must certify compliance with the requirements of this Subpart by submitting to the Agency the following:

- A) A description of the gas collection and control system used;
- B) The date the system was installed; and
- C) A demonstration that the control system meets the requirements of Section 220.230 of this Subpart:
 - i) For active collection systems: the reduction efficiency or ppmv must be established by a performance test using the test methods required pursuant to Section 220.260(d) of this Subpart; or
 - ii) For open flares: compliance with the requirements of 40 CFR 60.18, incorporated by reference in Section 220.130 of this Part, must be established.

Section 220.220 Gas Collection System Requirements

- a) Each owner or operator of an MSW landfill having a design capacity

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

equal to or greater than 2.5 million Mg and 2.5 million m(3), and a calculated NMOC emission rate equal to or greater than 50 Mg/yr, must install and operate a gas collection system that meets the requirements of either subsection (b), (c), (d), or (e) of this Section and:

- 1) Handles maximum expected gas flow rate from the entire area of the MSW landfill that warrants control pursuant to subsection (b)(1)(D) of this Section for the period required in Section 220.250(h) of this Subpart, as calculated pursuant to Section 220.240(a) of this Subpart;
- 2) Collects gas from each area, cell, or group of cells in the landfill in which the initial solid waste has been placed for a period of:
 - A) 5 years or more, if active; or
 - B) 2 years or more if closed or at final grade;
- 3) Is designed to minimize off-site migration of subsurface gas;
- 4) Routes all the collected gas to a control system that complies with the requirements in Section 220.230 of this Subpart; and
- 5) Collects and treats gas in accordance with the applicable requirements of 35 Ill. Adm. Code.Subtitle G.

b) Active Collection Systems:

- 1) Active collection wells, horizontal collectors, surface collectors, or other extraction devices shall be sited at a sufficient density throughout all gas producing areas using the following procedures:
 - A) The collection devices within the interior and along the perimeter areas shall be designed to achieve comprehensive control of surface gas emissions.
 - B) The sites for gas collection devices, as determined in subsection (b)(1)(A) of this Section, shall address landfill gas migration issues and augmentation of the collection system through the use of active or passive systems at the landfill perimeter or exterior.
 - C) Collect gas at a sufficient extraction rate, as defined at Section 220.110 of this Part.
 - D) The placement of gas collection devices determined in subsection (b)(1)(A) of this Section shall control all gas producing areas, except as provided by this subsection (b)(1)(D).
 - i) Any segregated area of asbestos or nondegradable material may be excluded from collection, if documented as provided under Section 220.280(f)(3) of this Subpart. The documentation shall provide the nature, date of deposition, location and amount of asbestos or nondegradable material deposited in the area, and shall be provided to the Agency upon request.
 - ii) Any nonproductive area of the landfill may be excluded

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

from control provided that the total of all excluded areas can be shown to contribute less than 1 percent of the total amount of NMOC emissions from the landfill. The amount, location, and age of the material shall be documented and provided to the Agency upon request. A separate NMOC emissions estimate shall be made for each section proposed for exclusion, and the sum of all such sections shall be compared to the NMOC emissions estimate for the entire landfill, as calculated pursuant to Section 220.260 of this Subpart. Emissions from each section shall be computed using the following equation:

$$Q[i] = 2kL[o]M[i](e^{-kt}[i])(C[NMOC])(3.6 \times 10^{-9})$$

where:

$Q[i]$	=	NMOC emission rate from the i(th) section, Mg/yr
k	=	methane generation rate constant, yr(-1)
$L[o]$	=	methane generation potential, m(3) per Mg solid waste
$M[i]$	=	mass of degradable solid waste in the i(th) section, Mg
$t[i]$	=	age of the solid waste in the i(th) section, years
$C[NMOC]$	=	concentration of NMOC, ppmv
3.6×10^{-9}	=	conversion factor

The values for k and $C[NMOC]$ determined in field testing shall be used, if field testing has been performed in determining the NMOC emission rate or the radii of influence (the distance from the well center to a point in the landfill where the pressure gradient applied by the blower or compressor approaches zero). If field testing has not been performed, the default values for k , $L[o]$, and $C[NMOC]$ provided in Section 220.260(a)(1) of this Subpart shall be used. The mass of nondegradable solid waste contained within the given section may be subtracted from the total mass of the section when estimating emissions, provided the nature, location, age and amount of the nondegradable material is documented.

- 2) The gas collection devices shall be constructed using the following equipment or procedures:
 - A) The landfill gas extraction components shall be constructed of polyvinyl chloride (PVC), high density polyethylene

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

(HDPE) pipe, fiberglass, stainless steel, or other nonporous corrosion resistant material of suitable dimensions to convey projected amounts of gases; withstand installation, static, and settlement forces; and withstand planned overburden or traffic loads. The collection system shall extend as necessary to comply with emission and migration standards. Collection devices, such as wells and horizontal collectors, shall be perforated to allow gas entry without head loss sufficient to impair performance across the intended extent of control. Perforations shall be situated with regard to the need to prevent excessive air infiltration.

B) Vertical wells shall be placed so as not to endanger underlying liners and shall address the occurrence of water within the landfill. Holes and trenches constructed for piped wells and horizontal collectors shall be of sufficient cross-section so as to allow for their proper construction and completion including, for example, centering of pipes and placement of gravel backfill. Collection devices shall be designed so as not to allow indirect short circuiting of air into the cover, refuse into the collection system or gas into the air. Any gravel used around pipe perforations should be of a dimension so as not to penetrate or block perforations.

C) Collection devices may be connected to the collection header pipes below or above the landfill surface. The connector assembly shall include a positive closing throttle valve, any necessary seals and couplings, access couplings and at least one sampling port. The collection devices shall be constructed of PVC, HDPE, fiberglass, stainless steel, or other nonporous material of suitable thickness.

3) The landfill gas shall be conveyed to a gas control system through the collection header pipe(s). The gas mover equipment shall be sized to handle the maximum gas generation flow rate expected for the period of intended use pursuant to Section 220.250(h) of this Subpart using the following procedures:

A) For existing gas collection systems, the flow data shall be used to project the maximum flow rate. If no flow data exists, the procedures in subsection (b)(3)(B) of this Section shall be used.

B) For new gas collection systems, the maximum flow rate shall be in accordance with Section 220.240(a) of this Subpart.

c) Passive Collection Systems:

1) A passive collection system shall be installed with liners on the bottom and all sides in all areas in which gas is to be collected. The liners shall meet all requirements specified in 35 Ill. Adm. Code 811.306.

2) The collection and control system shall either conform with the

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

specifications for active collection systems in subsection (a) of this Section or the owner or operator must obtain the Agency's approval for alternate provisions as provided for in subsection (d) of this Section.

d) Alternate Collection Systems:

An owner or operator seeking to install an alternate gas collection system shall demonstrate to the Agency that such collection system is capable of capturing the maximum expected gas flow rate from the entire area of the MSW landfill, for the period required in Section 220.250(h) of this Subpart, as calculated pursuant to Section 220.240(a) of this Subpart, and in an equivalent manner to that required by this Section. Any alternate gas collection system must be approved by the Agency. Such alternate shall be effective only when included in a federally enforceable permit or approved as a SIP revision. The alternate shall include any alternate procedures for collection, control, compliance, monitoring, operation, testing, reporting, and recordkeeping that are appropriate.

e) Alternate Emissions Standard:

Pursuant to Section 28.1 of the Act [415 ILCS 5/28.1], and in accordance with 35 Ill. Adm. Code 106, Subpart G, provisions for adjusted standards, adjusted standards for alternate emissions standards or alternate emissions standards with an alternate compliance schedule shall be granted by the Board, to the extent consistent with federal law. An owner or operator seeking an alternate emissions standard or an alternate emissions standard with an alternate compliance schedule must demonstrate to the Board that, with respect to the MSW landfill, the control requirements meet one or more of the criteria listed in this subsection (e) pursuant to 40 CFR 60.24(f). Any such request must be approved by the Board. Such alternate shall be effective only when included in a federally enforceable permit or approved as a SIP revision. Any alternate shall include any procedures for collection, control, compliance, monitoring, operation, testing, reporting and recordkeeping that are appropriate and a demonstration that the control requirements, as contained in this Subpart, as they apply to the MSW landfill, meet one or more of the following criteria:

- 1) Unreasonable cost of control resulting from plant age, location, or basic process design;
- 2) Physical impossibility of installing necessary control equipment; or
- 3) Other factors specific to the MSW landfill that support an alternate emissions standard or alternate emissions standard with final compliance date.

Section 220.230 Gas Control System Requirements

Each owner and operator of an MSW landfill subject to the control requirements of this Subpart must install and operate a gas collection system that routes

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

all the collected gas to a gas control system that complies with the requirements in subsection (f) and either install a gas control system, as described in either subsection (a), (b), or (c) of this Section, or obtain approval of and install an alternate gas control system pursuant to subsection (d) or (e) of this Section.

- a) An open flare designed and operated in accordance with 40 CFR 60.18, incorporated by reference in Section 220.130 of this Part.
- b) A control system designed and operated to reduce NMOC by 98 weight-percent, or, when an enclosed combustion device is used for control, to either reduce NMOC by 98 weight-percent or reduce the outlet NMOC concentration to less than 20 ppmv, dry basis as hexane at 3 percent oxygen. The reduction efficiency or ppmv must be established by an initial performance test required pursuant to Section 220.210(d)(2), using the test methods required under Section 220.260(d) of this Subpart:

- 1) If a boiler or process heater is used as the control device, the landfill gas stream shall be introduced into the flame zone.

- 2) The control device shall be operated within the parameter ranges established during the initial or most recent performance test.

The operating parameters to be monitored are specified in Section 220.270 of this Subpart. The initial performance test must be performed within 6 months after startup or by October 31, 2001, whichever is later.

- c) A treatment system that processes the collected gas for subsequent sale or use. All emissions from any atmospheric vent from the gas treatment system shall be subject to the requirements of subsection (b) of this Section.

- d) An alternate gas control system approved by the Agency. An owner or operator seeking to install an alternate gas control system shall demonstrate to the Agency that such collection system is capable of control equivalent to subsection (b) of this Section. Such alternate shall be effective only when included in a federally enforceable permit or approved as a SIP revision. The alternate shall include any alternate procedures for collection, control, compliance, monitoring, operation, testing, reporting, and recordkeeping that are appropriate.

- e) Pursuant to Section 28.1 of the Act [415 ILCS 5/28.1], and in accordance with 35 Ill. Adm. Code 106, Subpart G, provisions for adjusted standards, adjusted standards for alternate emissions standards or alternate emissions standards with an alternate compliance schedule shall be granted by the Board, to the extent consistent with federal law. An owner or operator seeking an alternate emissions standard or an alternate emissions standard with an alternate compliance schedule must demonstrate to the Board that, with respect to the MSW landfill, the control requirements meet one or more of the criteria listed in this subsection (e), pursuant to 40 CFR 60.24(f). Any such request must be approved by the Board. Such alternate shall be effective only when included in a federally enforceable permit or approved as a SIP revision. Any alternate shall

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

include any procedures for collection, control, compliance, monitoring, operation, testing, reporting, and recordkeeping that are appropriate and a demonstration that the control requirements as contained in this Subpart, as they apply to the MSW landfill, meet one or more of the following criteria:

- 1) Unreasonable cost of control resulting from plant age, location, or basic process design;
 - 2) Physical impossibility of installing necessary control equipment; or
 - 3) Other factors specific to the MSW landfill that support an alternate emissions standard or alternate emissions standard with final compliance date.
- f) Gas control systems must be operated in accordance with a permit issued pursuant to the applicable requirements of 35 Ill. Adm. Code Subtitle G.

Section 220.240 Compliance Procedures for Gas Collection Systems

- a) The methods specified in subsections (a)(1) through (a)(6) of this Section shall be used to determine whether the gas collection system is in compliance with Section 220.220 of this Subpart.

- 1) To calculate the maximum expected gas generation flow rate from the MSW landfill, one of the following equations shall be used. The k and $L[O]$ kinetic factors shall be those published in the Compilation of Air Pollutant Emission Factors (AP-42) incorporated by reference in Section 220.130 of this Part, or other site-specific emission factors approved by the Agency. If k has been determined as specified in Section 220.260(a)(4) of this Subpart, the value of k determined from the test shall be used. A value of no more than 15 years shall be used for the intended use period of the gas mover equipment, the variable t . The active life of the landfill is the age of the landfill plus the estimated number of years until closure.

A) For sites with unknown year-to-year solid waste acceptance rate:

$$Q[m] = 2L[O]R(e^{-kc}) - e(-kt))$$

where:

$Q[m]$	=	maximum expected gas generation flow rate, $m(3)/yr$
$L[O]$	=	methane generation potential, $m(3)$ per Mg solid waste
R	=	average annual acceptance rate, Mg/yr
k	=	methane generation rate constant, yr^{-1}
t	=	age in years of the landfill at

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

equipment installation plus time the owner or operator intends to use the gas mover equipment or active life of the landfill, whichever is less. If the equipment is installed after closure, t in years is the age of the landfill at installation

c = time since closure, years (for an active landfill c = 0 and e(-kc)=1)

B) For sites with known year-to-year solid waste acceptance rates:

$$Q[m] = \sum_{i=1}^n 2kL[o]M[i](e^{-kt[i]})$$

where:

Q[m] = maximum expected gas generation flow rate, m(3)/yr
 k = methane generation rate constant, yr(-1)
 L[o] = methane generation potential, m(3) per Mg solid waste
 M[i] = mass of solid waste in the i(th) section, Mg
 t[i] = age of the i(th) section, yr

C) If a collection and control system has been installed, actual flow data may be used to project the maximum expected gas generation flow rate instead of, or in conjunction with, the equations in subsections (a)(1)(A) and (a)(1)(B) of this Section. If the landfill is still accepting waste, the actual measured flow data will not equal the maximum expected gas generation rate, so calculations made using the equations in subsection (a)(1)(A) or (a)(1)(B) of this Section or other methods shall be used to predict the maximum gas generation rate over the intended period of use of the gas control system equipment.

2) For the purpose of determining the sufficient number of gas collectors, the owner or operator shall design a system of vertical wells, horizontal collectors, or other type of collection device, capable of controlling and extracting gas from all portions of the landfill sufficient to meet the operational and performance standards of Sections 220.220 through 220.250. Such design must be approved by the Agency as part of an air construction permit or a CAAPP permit, if the gas collection

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

system was installed prior to July 31, 1998.

- 3) For the purpose of demonstrating whether the gas collection system flow rate of an active collection system is sufficient, the owner or operator shall measure gauge pressure in the gas collection header at each individual well monthly. If positive pressure exists, action shall be initiated to correct the exceedance within 5 calendar days, except for the three conditions allowed under Section 220.250(b) of this Subpart. If negative pressure cannot be achieved without excess air infiltration within 15 calendar days after the first measurement, the gas collection system shall be expanded to correct the exceedance within 120 days after the initial measurement of positive pressure. Any attempted corrective measure must not cause exceedances of other operational or performance standards. An alternate timeline for correcting the exceedance may be submitted to the Agency for approval.
- 4) Owners or operators are not required to expand the system, as required in subsection (a)(3) of this Section, during the first 180 days after gas collection system startup.
- 5) For purposes of identifying whether excess air infiltration into the landfill is occurring, the owner or operator shall monitor each well on a monthly basis for temperature and nitrogen or oxygen, as provided in Section 220.250(c) of this Subpart. If a well exceeds one of these operating parameters, action shall be initiated to correct the exceedance within 5 calendar days. If correction of the exceedance cannot be achieved within 15 calendar days after the first measurement, the gas collection system shall be expanded to correct the exceedance within 120 days after the initial exceedance. An alternate timeline for correcting the exceedance may be submitted to the Agency for approval.
- 6) An owner or operator using a collection system that does not conform to the specifications provided in Section 220.220(b) or (c) of this Subpart shall provide information satisfactory to the Agency, as specified in Section 220.220(d) of this Subpart, demonstrating that off-site migration is being controlled.

b) To comply with the operational standards in Section 220.250(a) of this Subpart, each owner or operator of a controlled landfill shall install each well or design component as specified in a construction permit issued by the Agency. Each well shall be installed no later than 60 days after the date on which the initial solid waste has been in place for a period of:

- 1) 5 years or more if active; or
- 2) 2 years or more if closed or at final grade.

c) The following procedures shall be used for compliance with the surface methane operational standard as provided in Section 220.250(d) of this Subpart.

- 1) After installation of the collection system, the owner or

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

operator shall monitor surface concentrations of methane along the entire perimeter of the collection area and along a pattern that traverses the landfill at 30-meter intervals (or site-specific established spacing) for each collection area on a quarterly basis using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the specifications provided in subsection (d) of this Section.

2) The background concentration shall be determined by moving the probe inlet upwind and downwind outside the boundary of the landfill at a distance of at least 30 meters from the perimeter wells.

3) Surface emission monitoring shall be performed in accordance with section 4.3.1 of Method 21 of Appendix A, 40 CFR 60, incorporated by reference in Section 220.130 of this Part, except that the probe inlet shall be placed within 5 to 10 cm of the ground. Monitoring shall be performed during typical meteorological conditions.

4) Any reading of 500 ppm or more above background at any location shall be recorded as a monitored exceedance and the actions specified in subsections (c)(4)(A) through (c)(4)(E) of this Section shall be taken. As long as the actions specified below are taken, the exceedance is not a violation of the operational requirements of Section 220.250(d) of this Subpart.

A) The location of each monitored exceedance shall be marked and the location recorded.

B) Cover maintenance or adjustments to the vacuum of the adjacent wells to increase the gas collection in the vicinity of each exceedance shall be made and the location shall be remonitored within 10 calendar days after detecting the exceedance.

C) If the remonitoring of the location shows a second exceedance, additional corrective action shall be taken and the location shall be monitored again within 10 days after the second exceedance. If the remonitoring shows a third exceedance for the same location, the action specified in subsection (c)(4)(E) of this Section shall be taken. No further monitoring of that location is required until the action specified in subsection (c)(4)(E) of this Section has been taken.

D) If the remonitoring of the location does not show an exceedance, as specified by subsection (c)(4)(B) or (c)(4)(C), the location shall be remonitored 1 month from the initial exceedance. If the 1 month remonitoring shows a concentration less than 500 ppm above background, no further monitoring of that location is required until the next quarterly monitoring period. If the 1 month remonitoring shows an exceedance, the actions specified in subsection (c)(4)(C) or (c)(4)(E) of this Section, as appropriate,

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

shall be taken.

E) For any location where there are three monitored exceedances within a quarterly period, a new well or other collection device shall be installed within 120 calendar days after the initial exceedance. An alternate remedy to the exceedance, such as upgrading the blower, header pipes, or control device, and a corresponding timeline for installation may be submitted to the Agency for approval.

5) The owner or operator shall implement a program to monitor for cover integrity and implement cover repairs as necessary on a monthly basis.

d) The following instrumentation specifications and procedures for surface emission monitoring devices apply to the monitoring required by subsection (c) of this Section:

1) The portable analyzer shall meet the instrument specifications provided in Section 3, Method 21, Appendix A, 40 CFR 60, incorporated by reference in Section 220.130 of this Part, except that methane shall replace all references to VOC.

2) The calibration gas shall be methane, diluted to a nominal concentration of 500 ppm in air.

3) To meet the performance evaluation requirements in Section 3.1.3, Method 21, Appendix A, 40 CFR 60, incorporated by reference in Section 220.130 of this Part, the instrument evaluation procedures of Section 4.4 of Method 21, Appendix A, 40 CFR 60, incorporated by reference in Section 220.130 of this Part, shall be used.

4) The calibration procedures provided in Section 4.2, Method 21, Appendix A, 40 CFR 60, incorporated by reference in Section 220.130 of this Part, shall be followed immediately before commencing a surface monitoring survey.

e) The MSW landfill owners or operators are required to comply with the provisions of this Subpart at all times, except during periods of start-up, shutdown, or malfunction, provided that the duration of start-up, shutdown, or malfunction must not exceed 5 days for collection systems and must not exceed 1 hour for treatment or control devices.

Section 220.250 Operational Standards for Collection and Control Systems

Each owner or operator of an MSW landfill with a gas collection and control system shall:

a) Operate the collection system such that gas is collected from each area, cell, or group of cells in the MSW landfill in which the initial solid waste has been in place for:

1) 5 years or more if active; or

2) 2 years or more if closed or at final grade.

b) Operate the collection system with negative pressure at each wellhead except under the following conditions:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- 1) A fire or increased well temperature. The owner or operator shall record instances when positive pressure occurs in efforts to avoid a fire. These records shall be submitted with the annual reports as provided in Section 220.280(e)(1) of this Subpart.
- 2) Use of a geomembrane or synthetic cover. The owner or operator shall develop pressure limits associated with such a cover that must be approved by the Agency.
- 3) A decommissioned well. A well may experience a static positive pressure after shut down to accommodate for declining flows. All design changes shall be approved by the Agency.
- c) Operate each interior wellhead in the collection system with a landfill gas temperature less than 55°C (131°F) and with either a nitrogen level less than 20 percent or an oxygen level less than 5 percent. The owner or operator may establish a higher operating temperature, nitrogen, or oxygen value at a particular well. A higher operating value demonstration that provides supporting data to show that the elevated parameter does not cause fires or significantly inhibit anaerobic decomposition by killing methanogens must be approved by the Agency before such higher operating value may be used. Operating values shall be determined as follows:
 - 1) The nitrogen level shall be determined using Method 3C, Appendix A, 40 CFR 60, incorporated by reference in Section 220.130 of this Part.
 - 2) The oxygen level shall be determined by an oxygen meter using Method 3A, Appendix A, 40 CFR 60, incorporated by reference in Section 220.130 of this Part, except that:
 - A) The span shall be set so that the regulatory limit is between 20 and 50 percent of the span;
 - B) A data recorder is not required;
 - C) Only two calibration gases are required, a zero and span, and ambient air may be used as the span;
 - D) A calibration error check is not required; and
 - E) The allowable sample bias, zero drift, and calibration drift are plus or minus 10 percent.
- d) Operate the collection system so that the methane concentration is less than 500 ppm above background at the surface of the landfill. To determine if this level is exceeded, the owner or operator shall conduct surface testing around the perimeter of the collection area and along a pattern that traverses the landfill at 30-meter intervals and where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover. An initial surface monitoring design plan shall be developed and included as part of the operating permit application (e.g., a CHAPP permit application) that includes a topographical map with the monitoring route and the rationale for any site-specific deviations from the 30-meter intervals. Areas with steep slopes or other dangerous areas may be excluded from the surface testing. The

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- monitoring plan shall be updated as necessary. Updated copies must be sent to the Agency and kept on-site at the MSW landfill.
- e) Operate the gas collection and control system such that all collected gases are vented to a control system designed and operated in compliance with Sections 220.230, 220.250, and 220.270 of this Subpart. In the event the collection or control system is inoperable, the gas mover system shall be shut down and all valves in the collection and control system contributing to venting of the gas to the atmosphere shall be closed within 1 hour.
 - f) Operate the gas collection and control or treatment system at all times, except during shutdown or malfunction, provided that the duration of start-up, shutdown, or malfunction must not exceed 5 days for collection systems and must not exceed 1 hour for treatment or control devices.
 - g) If monitoring demonstrates that the operational requirements in subsection (b), (c), or (d) of this Section are not met, take corrective action as specified in Section 220.240(a)(3), (a)(5), or (c)(4) of this Subpart. If such corrective actions are taken as specified in Section 220.240(a)(3), (a)(5), or (c)(4) of this Subpart, the monitored exceedence is not a violation of the operational requirements in this Section.
 - h) The collection and control system may be capped or removed provided:
 - 1) The landfill is no longer accepting solid waste;
 - 2) A system removal report has been submitted to the Agency, as provided in Section 220.280(d) of this Subpart;
 - 3) The collection and control system has been operating a minimum of 15 years;
 - 4) The calculated NMOC gas produced by the landfill is less than 50 Mg/yr on three successive test dates, pursuant to the procedures specified in Section 220.260(b) of this Subpart. The test dates shall be no less than 90 days apart, and no more than 180 days apart; and
 - 5) The system is not required to satisfy any applicable requirement of 35 Ill. Adm. Code-Subtitle G.

Section 220.260 Test Methods and Procedures

- a) The landfill owner or operator shall calculate the NMOC emission rate using the equation provided in either subsection (a)(1)(A) or subsection (a)(1)(B) of this Section and make a determination that the emission rate is less than 50 Mg/yr, pursuant to subsection (a)(2), (a)(3), (a)(4), or (e), or install a gas collection and control system pursuant to Sections 220.220 and 220.230 of this Subpart. However, both equations may be used if the actual year-to-year solid waste acceptance rate is known pursuant to subsection (a)(1)(A) of this Section, for part of the life of the landfill and the actual year-to-year solid waste acceptance rate is unknown, pursuant to subsection (a)(1)(B) of this Section, for part of the life of the

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

landfill. If the NMOC emission rate calculated in this subsection is less than 50 Mg/yr, then the landfill owner shall submit an emission rate report as provided in Section 220.280(b) of this Subpart, and shall recalculate the NMOC mass emission rate as required under Section 220.210(c) of this Subpart.

1) The values to be used in both equations are 0.05/yr for k , 170 $m(3)$ per Mg for $L[o]$, and 4,000 ppmv as hexane for the $C[NMOC]$.

A) The following equation shall be used if the actual year-to-year solid waste acceptance rate is known:

$$M[NMOC] = \sum_{i=1}^n 2kL[o]M[i](e^{-kt[i]})(C[NMOC])(3.6 \times 10^{-9})$$

where:

$M[NMOC]$ = Total NMOC emission rate from the landfill, Mg/yr
 k = methane generation rate constant, yr^{-1}
 $L[o]$ = methane generation potential, $m(3)$ per Mg solid waste
 $M[i]$ = mass of solid waste in the $i(th)$ section, Mg
 $t[i]$ = age of the solid waste in the $i(th)$ section, years
 $C[NMOC]$ = concentration of NMOC, ppmv as hexane
 3.6×10^{-9} = conversion factor

The mass of nondegradable solid waste may be subtracted from the total mass of solid waste in a particular section of the landfill when calculating the value for $M[i]$ if documentation of the nature and amount of such wastes is maintained.

B) The following equation shall be used if the actual year-to-year solid waste acceptance rate is unknown:

$$M[NMOC] = 2L[o]R(e^{-kc} - e^{-kt})(C[NMOC])(3.6 \times 10^{-9})$$

where:

$M[NMOC]$ = Total NMOC emission rate from the landfill, Mg/yr
 $L[o]$ = methane generation potential, $m(3)$ per Mg solid waste
 R = average annual acceptance rate, Mg/yr
 k = methane generation rate constant, $year^{-1}$

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

t = age of landfill, years
 $C[NMOC]$ = concentration of NMOC, ppmv as hexane
 c = time since closure, years (for active landfill $c = 0$ and $e^{-kc} = 1$)
 3.6×10^{-9} = conversion factor

The mass of nondegradable solid waste may be subtracted from the average annual acceptance rate when calculating a value for R , if documentation of the nature and amount of such wastes is maintained.

2) Tier 1. The landfill owner or operator shall calculate the NMOC mass emission rate using the equations provided in subsection (a)(1)(A) or (a)(1)(B) of this Section. The owner or operator shall compare the calculated NMOC mass emission rate to the standard of 50 Mg/yr using the default values for the NMOC mass emission rate and the methane generation rate constant.

3) Tier 2. The landfill owner or operator shall calculate the NMOC mass emission rate using the equations provided in subsection (a)(1)(A) or (a)(1)(B) of this Section using the average NMOC concentration from the collected samples instead of the default value in the equations provided in subsection (a)(1) of this Section. The landfill owner or operator shall determine the NMOC concentration using the following sampling procedure:

The landfill owner or operator shall install at least 2 sample probes per hectare of landfill surface that has retained waste for at least 2 years. If the landfill is larger than 25 hectares in area, only 50 samples are required. The sample probes should be located to avoid known areas of nondegradable solid waste. The owner or operator shall collect and analyze one sample of landfill gas from each probe to determine the NMOC concentration using Method 25C or Method 18 of Appendix A, 40 CFR 60, incorporated by reference in Section 220.130 of this Part. If using Method 18, the minimum list of compounds to be tested shall be those published in the Compilation of Air Pollutant Emission Factors (AP-42), incorporated by reference in Section 220.130 of this Part. If composite sampling is used, equal volumes shall be taken from each sample probe. If more than the required number of samples are taken, all samples shall be used in the analysis. Divide the NMOC concentration from Method 25C by 6 to convert from $C[NMOC]$ as carbon to $C[NMOC]$ as hexane. The owner or operator shall retest the site-specific NMOC concentration every 5 years using the methods specified in this Section.

4) Tier 3. The landfill owner or operator shall estimate the NMOC mass emission rate using equations in subsection (a)(1)(A) or (a)(1)(B) of this Section and using a site-specific methane generation rate constant k , and the site-specific NMOC

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

concentration as determined in subsection (a)(3) of this Section instead of the default values provided in subsection (a)(1) of this Section. The site-specific methane generation rate constant shall be determined using the procedures provided in Method 2E, Appendix A, 40 CFR 60, incorporated by reference in Section 220.130 of this Part. The calculation of the methane generation rate constant is performed only once, and the value obtained is used in all subsequent annual NMOC emission rate calculations. In addition, pursuant to subsection (a)(3) of this Section, the owner or operator shall retest the site-specific NMOC concentration every 5 years using the methods specified in that subsection.

- b) After the installation of a collection and control system in compliance with Sections 220.220 and 220.230 of this Subpart, the owner or operator shall calculate the NMOC emission rate for purposes of determining when the system can be removed as provided in Section 220.250(h) of this Subpart, using the following equation:

$$M[NMOC] = 1.89 \times 10^{(-3)} Q[LFG] C[NMOC]$$

where:

$M[NMOC]$ = mass emission rate of NMOC (Mg/yr)

$Q[LFG]$ = flow rate of landfill gas (m³/minute)

$C[NMOC]$ = NMOC concentration (ppmv as hexane)

- 1) The flow rate of landfill gas ($Q[LFG]$) shall be determined by measuring the total landfill gas flow rate at the common header pipe that leads to the control device using a gas flow measuring device calibrated according to the provisions of Section 4 of Method 2E, Appendix A, 40 CFR 60, incorporated by reference in Section 220.130 of this Part.
- 2) The average NMOC concentration ($C[NMOC]$) shall be determined by collecting and analyzing landfill gas sampled from the common header pipe before the gas moving or condensate removal equipment using the procedures in Method 25C or Method 18, Appendix A, 40 CFR 60, incorporated by reference in Section 220.130 of this Part. If using Method 18, the minimum list of compounds to be tested shall be those published in the Compilation of Air Pollutant Emission Factors (AP-42), incorporated by reference in Section 220.130 of this Part. The sample location on the common header pipe shall be before any condensate removal or other gas refining units. The landfill owner or operator shall divide the NMOC concentration from Method 25C by 6 to convert $C[NMOC]$ as carbon to $C[NMOC]$ as hexane.
- c) If the gas collection system complies with the provisions in Section 220.220 of this Subpart and is already installed, the owner or operator shall estimate the NMOC emission rate using the procedures

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

provided in subsection (b) of this Section. For areas of the landfill where the owner or operator has not been required to install a well yet, he/she may select an appropriate method from subsection (a) of this Section to estimate emissions.

- d) For the performance test required in Section 220.210(d)(2) of this Subpart, Method 25C or Method 18, Appendix A, 40 CFR 60, incorporated by reference in Section 220.130 of this Part, shall be used to determine compliance with 98 weight-percent efficiency or the 20 ppmv outlet concentration level, unless another method to demonstrate compliance has been approved by the Agency as provided by Section 220.230(d) of this Subpart. If using Method 18, the minimum list of compounds to be tested shall be those published in the Compilation of Air Pollutant Emission Factors (AP-42), incorporated by reference in Section 220.130 of this Part. The following equation shall be used to calculate efficiency:

$$\text{Control efficiency} = (NMOC[in] - NMOC[out]) / (NMOC[in])$$

where:

$NMOC[in]$ = mass of NMOC entering control device

$NMOC[out]$ = mass of NMOC exiting control device

- e) The owner or operator may use other methods to determine the NMOC concentration, site-specific k , or landfill gas flow rate, as an alternate to the methods required in subsection (a)(3) and (a)(4) of this Section, if the method has been approved by the Agency, as provided for in Section 220.220(d) or Section 220.230(d) of this Subpart.
- f) The owner or operator may use the procedures described in AP-42, Compilation of Air Pollutant Emission Factors, incorporated by reference in Section 220.130 of this Part, to estimate emissions pursuant to the annual emission report required in 35 Ill. Adm. Code 210.302(a). The most recent values for k , $L[O]$, and NMOC concentration reported in AP-42 shall be used to calculate emissions. To determine applicability of or compliance with the requirements of this Part, the owner or operator must use the tiered emission estimates provided in subsections (a)(1) through (a)(4) of this Section.
- g) Testing:
- 1) Upon a request by the Agency, the owner or operator of an MSW landfill shall at his own expense demonstrate compliance with the applicable requirements of this Subpart using the appropriate test method.
 - 2) An owner or operator planning to conduct a test to demonstrate compliance with this Subpart shall notify the Agency of that intent not less than 30 days before the planned initiation of the tests so that the Agency may observe the test.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

Section 220.270 Monitoring of Operations

a) Active gas collection systems. Each owner or operator of an active gas collection system shall install a sampling port and a thermometer, other temperature measuring device, or an access port for temperature measurements at each wellhead and:

- 1) Measure the gauge pressure in the gas collection header on a monthly basis, as provided in Section 220.240(a)(3) of this Subpart; and
- 2) Monitor the temperature and nitrogen or oxygen concentration in the landfill gas on a monthly basis, as provided in Section 220.240(a)(5) of this Subpart.

b) Enclosed combustors. Each owner or operator of an enclosed combustor shall calibrate, maintain, and operate according to the manufacturer's specifications, the following equipment:

- 1) A temperature monitoring device equipped with a continuous recorder and having a minimum accuracy of plus or minus 1 percent of the temperature being measured, expressed in degrees Celsius, or plus or minus 0.5°C, whichever is greater. A temperature monitoring device is not required for boilers or process heaters with design heat input capacity greater than 44 MW.
- 2) A device that records flow to or bypass of the control device.

The owner or operator shall either:

- A) Install, calibrate, and maintain a gas flow rate measuring device that shall record the flow to the control device every 15 minutes; or
- B) Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow is not diverted through the bypass line.

c) Open flare. Each owner or operator of an open flare shall install, calibrate, maintain, and operate according to the manufacturer's specifications the following equipment:

- 1) A heat sensing device, such as an ultraviolet beam sensor or thermocouple, at the pilot light or the flame itself to indicate the continuous presence of a flame.
- 2) A device that records flow to or bypass of the flare. The owner or operator shall either:

- A) Install, calibrate, and maintain a gas flow rate measuring device that shall record the flow to the control device at least every 15 minutes; or
- B) Secure the bypass line valve in the closed position with a car-seal or lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- d) Each owner or operator seeking to install a collection or control system that does not meet the specifications in Section 220.220(b) or (c) of this Subpart, shall provide information satisfactory to the Agency as provided in Sections 220.220(d) and 220.230(d) of this Subpart, describing the design and operation of the collection system, the operating parameters that would indicate proper performance, and appropriate monitoring procedures.

e) Each owner or operator shall monitor surface concentrations of methane according to the instrument specifications and procedures provided in Section 220.240(c) and (d) of this Subpart. Any inactive landfill that has no monitored exceedences of the operational standard in three consecutive quarterly monitoring periods must resume annual monitoring. Any methane reading of 500 ppm or more above the background detected during the annual monitoring returns the monitoring frequency for that landfill to quarterly.

Section 220.280 Reporting Requirements

a) Each owner and operator shall submit a design capacity report to the Agency.

- 1) The initial design capacity report shall be submitted no later than October 29, 1998.
- 2) The initial design capacity report shall contain the following information:

A) A map or plot of the landfill providing the size and location of the landfill and identifying all areas where solid waste may be landfilled according to the provisions of the State or RCRA construction or operating permit.

B) The maximum design capacity of the landfill. If the maximum design capacity is specified in a State construction or RCRA permit, a copy of the permit specifying the maximum design capacity of the landfill shall be provided. If the maximum design capacity of the landfill is not specified in a permit, the maximum design capacity shall be calculated using good engineering practices. The calculations shall be provided, along with the relevant parameters (e.g., depth of solid waste, solid waste acceptance rate, and compaction practices, as applicable), as part of the report. The Agency may request other reasonable information as may be necessary to verify the maximum design capacity of the landfill.

- 3) An amended design capacity report shall be submitted to the Agency providing notification of an increase in the design capacity of the landfill within 90 days after an increase in the maximum design capacity of the landfill to or above 2.5 million Mg and 2.5 million m(3). This increase in design capacity may result from an increase in the permitted volume or an increase in

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

the density of the landfill as documented in the annual recalculation required in Section 220.290(f) of this Subpart.

- b) Each owner and operator with a total design capacity equal to or greater than 2.5 million Mg and 2.5 million m³ shall submit an NMOC emission rate report to the Agency initially and by June 1 annually thereafter, except as provided for in subsections (b)(1) and (b)(4) of this Section. The Agency may request such additional information as may be necessary to verify the reported NMOC emission rate. The NMOC emission rate report shall contain an annual or 5-year estimate of the NMOC emission rate calculated using the formula and procedures in Section 220.260(a) of this Subpart, as applicable. The annual NMOC emission rate report required by this subsection must be submitted with the annual emissions report required pursuant to 35 Ill. Adm. Code 201.302(a).

1) The initial NMOC emission rate report may be combined with the initial design capacity report required in subsection (a) of this Section. The first NMOC emission report shall be filed with the Agency by October 29, 1998. Subsequent NMOC emission reports shall be filed with the Agency by June 1 of the subsequent year, except as provided for in subsection (b)(2) of this Section.

2) Using Tier 1, if the estimated NMOC emission rate as reported in the annual report to the Agency is less than 50 Mg/yr in each of the next 5 consecutive years, the owner or operator may elect to submit an estimate of the NMOC emission rate for the next 5-year period in lieu of the annual report. This estimate shall include the current amount of solid waste in-place and the estimated waste acceptance rate for each year of the 5 years for which an NMOC emission rate is estimated. All data and calculations upon which this estimate is based shall be provided to the Agency. This estimate shall be revised at least once every 5 years. If the actual waste acceptance rate exceeds the estimated waste acceptance rate in any year reported in the 5-year estimate, a revised 5-year estimate shall be submitted to the Agency. The revised estimate shall cover the 5-year period beginning with the year in which the actual waste acceptance rate exceeded the estimated waste acceptance rate.

3) The NMOC emission rate report shall include all the data, calculations, sample reports and measurements used to estimate the annual or 5-year emissions.

4) All owners and operators of MSW landfills with a total design capacity of 2.5 million Mg and 2.5 million m³ are required to submit an annual emissions report pursuant to 35 Ill. Adm. Code 201.302(a). MSW landfills that have installed a gas collection and control system that meets the requirements of this Subpart are not required to submit an annual NMOC emission rate report but are required to submit an annual emissions report pursuant to 35 Ill. Adm. Code 201.302(a). Further, owners or operators filing a 5-year estimate of NMOC emissions pursuant to subsection (b)(2)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

of this Section may use a 5-year estimate for NMOC, so long as they file an annual emission report and meet the requirements of subsection (b)(2) of this Section.

- c) Each owner or operator subject to the provisions of Section 220.220(a) of this Subpart shall submit an application for a construction permit containing the information listed in subsection (c)(3) of this Section to the Agency within 1 year after the first report, required under subsection (b) of this Section, in which the emission rate exceeds 50 Mg/yr, except as follows:

1) If the owner or operator elects to recalculate the NMOC emission rate after Tier 2 NMOC sampling and analysis as provided in Section 220.260(a)(3) of this Subpart and the resulting rate is less than 50 Mg/yr, annual periodic reporting shall be resumed, using the Tier 2 determined site-specific NMOC concentration, until the calculated emission rate is equal to or greater than 50 Mg/yr or the landfill is inactive. The revised NMOC emission rate report, with the recalculated emission rate based on NMOC sampling and analysis, shall be submitted within 1 year after the first calculated exceedance of 50 Mg/yr.

2) If the owner or operator elects to recalculate the NMOC emission rate after determining a site-specific methane generation rate constant k, as provided in Tier 3 in Section 220.260(a)(4) of this Subpart, and the resulting emission rate is less than 50 Mg/yr, annual periodic reporting shall be resumed or the landfill is inactive. The resulting site-specific methane generation rate constant k shall be used in the emission rate calculation until such time as the emission rate calculation results in an exceedance. The revised NMOC emission rate report based on the provisions of Section 220.260(a)(4) of this Subpart and the resulting site-specific methane generation rate constant k shall be submitted to the Agency within 1 year after the first calculated emission rate exceeding 50 Mg/yr.

3) In addition to the information required by 35 Ill. Adm. Code 201.152, the following shall be included in the construction permit application for the collection system required pursuant to Section 220.280(c) of this Subpart: depths of refuse, refuse gas generation rates and flow characteristics, cover properties, gas system expandability, leachate and condensate management, accessibility, compatibility with filling operations, integration with closed landfill end use, air intrusion control, corrosion resistance, fill settlement, and resistance to the refuse decomposition heat.

d) Each owner or operator of a controlled landfill shall submit the information required by this subsection (d) to the Agency 30 days prior to removal or cessation of operation of the control equipment. The Agency may request such additional information as may be necessary to verify that all of the conditions for removal of equipment in accordance with Section 220.250(h) of this Subpart have been met.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- 1) Certification that the operation of the collection and control system is no longer required pursuant to 35 Ill. Adm. Code, Subtitle G;
 - 2) Documentation demonstrating that the 15-year minimum control period has expired; and
 - 3) Dated copies of the 3 successive NMOC emission rate reports, as provided for in Section 220.250(h) of this Subpart, demonstrating that the landfill is no longer producing 50 Mg/yr or greater of NMOC, pursuant to Section 220.260(b) of this Section.
- e) Each owner or operator of a landfill shall submit to the Agency annual reports of the recorded information in subsections (e)(1) through (e)(6) of this Section. The initial annual report shall be submitted within 180 days after installation and start-up of the collection and control system, and may be included with the report of the initial performance test required pursuant to Section 220.210(d)(2) of this Subpart. For enclosed combustion devices and flares, reportable exceedences are defined under Section 220.290(c) of this Subpart.
- 1) Value and length of time for exceedence of applicable parameters monitored under Section 220.270(a), (b), (c), and (d) of this Subpart.
 - 2) Description and duration of all periods when the gas stream is diverted from the control device through a bypass line or the indication of bypass flow as specified under Section 220.270 of this Subpart.
 - 3) Description and duration of all periods when the control device was not operating for a period exceeding 1 hour and length of time the control device was not operating.
 - 4) All periods when the collection system was not operating in excess of 5 days.
 - 5) The location of each exceedence of the 500 ppm methane concentration, as provided in Section 220.250(d) of this Subpart, and the concentration recorded at each location for which an exceedence was recorded in the previous month.
 - 6) The date of installation and the location of each well or collection system expansion added pursuant to subsections (a)(3), (b), and (c)(4) of Section 220.240 of this Subpart.
- f) Each owner or operator shall include the following information with the initial performance test report and any subsequent performance tests required pursuant to Section 220.210(d)(2) of this Subpart.
- 1) A diagram of the collection system showing collection system positioning including all wells, horizontal collectors, surface collectors, or other gas extraction devices, including the locations of any areas excluded from collection and the proposed sites for the future collection system expansion;
 - 2) The data upon which the sufficient density of wells, horizontal collectors, surface collectors, or other gas extraction devices and the gas mover equipment sizing are based;
 - 3) The documentation of the presence of asbestos or nondegradable

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- material for each area from which collection wells have been excluded based on the presence of asbestos or nondegradable material;
- 4) The sum of gas generation flow rates for all areas from which collection wells have been excluded based on nonproductivity and the calculations of gas generation flow rate for each excluded area;
 - 5) Provisions for increasing gas mover equipment capacity with increased gas generation flow rate, if the present gas mover equipment is inadequate to move the maximum flow rate expected over the life of the landfill; and
 - 6) The provisions for the control of off-site migration of gas.

Section 220.290 Recordkeeping Requirements

Each owner or operator of an MSW landfill shall keep for at least 5 years, unless another time period is specified in this Section, up-to-date, readily accessible, on-site records of the following:

- a) For the life of the landfill, the design capacity report in which the landfill became equal to or greater than 2.5 million Mg and 2.5 million m³), the current amount of solid waste in-place, and the year-by-year waste acceptance rate. Off-site records may be maintained if they are retrievable within 4 hours. Either paper copy or electronic formats are acceptable.
- b) For the life of the control equipment, the data listed in subsections (b)(1) through (b)(4) of this Section as measured during the initial performance test or compliance determination. Records of the control device vendor specifications shall be maintained until removal.
 - 1) Active collection systems:
 - A) The maximum expected gas generation flow rate as calculated in Section 220.240(a) of this Subpart. The owner or operator may use another method to determine the maximum gas generation flow rate, if the method has been approved by the Agency.
 - B) The density of wells, horizontal collectors, surface collectors, or other gas extraction devices determined using the procedures specified in Section 220.220(b)(1)(A) of this Subpart.
 - 2) Enclosed combustion device other than a boiler or process heater with a design heat input capacity greater than 44 MW:
 - A) The combustion temperature measured at least every 15 minutes and averaged over the same time period as the performance test.
 - B) The percent reduction of NMOC determined as specified in Section 220.230(b) of this Subpart achieved by the control device.
 - 3) Boilers or process heaters of any size: a description of the location at which the collected gas vent stream is introduced

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

into the boiler or process heater over the same time period as the performance testing.

- 4) Open flare: the flare type (i.e., steam-assisted, air-assisted, or nonassisted), all visible emission readings, heat content determination, flow rate or bypass flow rate measurements, and exit velocity determinations made during the performance test as specified in 40 CFR 60.18, incorporated by reference in Section 220.130 of this Part; continuous records of the flare pilot flame or flare flame monitoring and records of all periods of operations during which the flare pilot flame or the flare flame is absent.

- c) Continuous records of the equipment operating parameters specified to be monitored in Section 220.270 of this Subpart as well as up-to-date, readily accessible records for periods of operation during which the parameter boundaries established during the most recent performance test are exceeded.

- 1) The following constitute exceedences that shall be recorded and reported under Section 220.280(e) of this Subpart:

A) For enclosed combustors, except for boilers and process heaters with design heat input of 44 MW (150 mmbtu/hr) or greater, all 3-hour periods of operation during which the average combustion temperature was more than 28°C (82°F) below the average combustion temperature during the most recent performance test at which compliance with Section 220.230(b) of this Subpart was determined.

B) For boilers or process heaters, whenever there is a change in the location at which the vent stream is introduced into the flame zone, as required pursuant to subsection (b)(2)(A) of this Section.

- 2) Continuous records of the indication of flow to the control device or the indication of bypass flow or records of monthly inspections of car-seals or lock-and-key configurations used to seal bypass lines, specified pursuant to Section 220.270 of this Subpart.

3) For boilers or process heaters with a design heat input capacity of 44 MW or greater, records of all periods of operation of boiler or process heater. (Examples of such records include records of steam use, fuel use, or monitoring data collected pursuant to State, local, or federal regulatory requirements.)

- 4) For open flares, records of the flame or flare pilot flame monitoring specified under Section 220.270(c) of this Subpart, and all periods of operation in which the flare pilot flame or the flare flame is absent.

- d) For the life of the collection system, a plot map showing each existing and planned collector in the system and providing a unique identification location label for each collector, including:

- 1) The location of all newly installed collectors as specified under Section 220.240(b) of this Part.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- 2) The nature, date of deposition, amount, and location of asbestos-containing or nondegradable waste excluded from collection, as provided in Section 220.220(b)(1)(D)(i) of this Subpart, as well as any nonproductive areas excluded from collection, as provided in Section 220.220(b)(1)(D)(ii) of this Subpart.

e) All collection and control system exceedences of the operational standards in Section 220.250 of this Subpart, the reading the subsequent month whether or not the second reading is an exceedence, and the location of each exceedence.

f) Owners or operators who convert design capacity from volume to mass or mass to volume to demonstrate that landfill design capacity is less than 2.5 million Mg or 2.5 million m(3), as provided in the definition of "design capacity", shall keep records of the annual recalculation of site-specific density, design capacity, and the supporting documentation.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Permits and General Provisions
- 2) Code Citation: 35 Ill. Adm. Code 201
- 3) Section Number
201.103 Adopted Action
201.104 Amended
201.104 Amended
- 4) Statutory Authority: 415 ILCS 5/4, 9.1, 27 and 28.5.
- 5) Effective Date of Amendments: July 31, 1998.
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) Date filed in Board's principal office: June 17, 1998.
- 9) Notice of proposal published in Illinois Register: 22 Ill. Reg. 6500 (April 10, 1998).
- 10) Has JCAR issued a statement of objection to these rules? No
- 11) Differences between proposal and final version: Minor editorial changes were made.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreement letter issued by JCAR? No agreement letter was issued by JCAR.
- 13) Will these amendments replace an emergency rule currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and purpose of amendments: A more detailed discussion of these rules appears in the Board's June 17, 1998, opinion and order in Docket R98-28. The primary purpose of the amendments to Part 201 is to create abbreviations and definitions for terms that are in new Part 220 Non-methane Organic Compounds, which was added in this docket.
- 16) Information and questions regarding the adopted amendments shall be directed to:

Catherine F. Glenn, Attorney
 Illinois Pollution Control Board
 100 West Randolph Street, Suite 11-500
 Chicago, Illinois 60601
 312-814-6923

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Request for copies of the rules or the Board's June 17, 1998, opinion and order should be addressed to Victoria Agveman, at 312-814-3620 or at the above address and should reference Docket R98-28.

The full text of the Adopted Amendments begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE B: AIR POLLUTION

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER a: PERMITS AND GENERAL PROVISIONS

PART 201

PERMITS AND GENERAL PROVISIONS

SUBPART A: DEFINITIONS

- Section
- 201.101 Other Definitions
- 201.102 Definitions
- 201.103 Abbreviations and Units
- 201.104 Incorporations by Reference

SUBPART B: GENERAL PROVISIONS

- Section
- 201.121 Existence of Permit No Defense
- 201.122 Proof of Emissions
- 201.123 Burden of Persuasion Regarding Exceptions
- 201.124 Annual Report
- 201.125 Severability
- 201.126 Repealer

SUBPART C: PROHIBITIONS

- Section
- 201.141 Prohibition of Air Pollution
- 201.142 Construction Permit Required
- 201.143 Operating Permits for New Sources
- 201.144 Operating Permits for Existing Sources
- 201.146 Exemptions from State Permit Requirements
- 201.147 Former Permits
- 201.148 Operation Without Compliance Program and Project Completion Schedule
- 201.149 Operation During Malfunction, Breakdown or Startups
- 201.150 Circumvention
- 201.151 Design of Effluent Exhaust Systems

SUBPART D: PERMIT APPLICATIONS AND REVIEW PROCESS

- Section
- 201.152 Contents of Application for Construction Permit
- 201.153 Incomplete Applications (Repealed)
- 201.154 Signatures (Repealed)
- 201.155 Standards for Issuance (Repealed)
- 201.156 Conditions

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Contents of Application for Operating Permit

- 201.157 Incomplete Applications
- 201.158 Signatures
- 201.159 Standards for Issuance
- 201.160 Conditions
- 201.161 Duration
- 201.162 Joint Construction and Operating Permits
- 201.163 Design Criteria
- 201.164 Hearings
- 201.165 Revocation
- 201.166 Revisions to Permits
- 201.167 Appeals from Conditions
- 201.168 Special Provisions for Certain Operating Permits
- 201.169

SUBPART E: SPECIAL PROVISIONS FOR OPERATING PERMITS FOR CERTAIN SMALLER SOURCES

- Section
- 201.180 Applicability (Repealed)
- 201.181 Expiration and Renewal (Repealed)
- 201.182 Requirement for a Revised Permit (Repealed)
- 201.187

SUBPART F: CAAPP PERMITS

- Section
- 201.207 Applicability
- 201.208 Supplemental Information
- 201.209 Emissions of Hazardous Air Pollutants
- 201.210 Categories of Insignificant Activities or Emission Levels
- 201.211 Application for Classification as an Insignificant Activity
- 201.212 Revisions to Lists of Insignificant Activities or Emission Levels

SUBPART G: EXPERIMENTAL PERMITS (RESERVED)

SUBPART H: COMPLIANCE PROGRAMS AND PROJECT COMPLETION SCHEDULES

- Section
- 201.241 Contents of Compliance Program
- 201.242 Contents of Project Completion Schedule
- 201.243 Standards for Approval
- 201.244 Revisions
- 201.245 Effects of Approval
- 201.246 Records and Reports
- 201.247 Submission and Approval Dates

SUBPART I: MALFUNCTIONS, BREAKDOWNS OR STARTUPS

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 201.261 Contents of Request for Permission to Operate During a Malfunction, Breakdown or Startup

Section 201.262 Standards for Granting Permission to Operate During a Malfunction, Breakdown or Startup

Section 201.263 Records and Reports

Section 201.264 Continued Operation or Startup Prior to Granting of Operating Permit

Section 201.265 Effect of Granting of Permission to Operate During a Malfunction, Breakdown or Startup

SUBPART J: MONITORING AND TESTING

Section 201.281 Permit Monitoring Equipment Requirements

Section 201.282 Testing

Section 201.283 Records and Reports

SUBPART K: RECORDS AND REPORTS

Section 201.301 Records

Section 201.302 Reports

SUBPART L: CONTINUOUS MONITORING

Section 201.401 Continuous Monitoring Requirements

Section 201.402 Alternative Monitoring

Section 201.403 Exempt Sources

Section 201.404 Monitoring System Malfunction

Section 201.405 Excess Emission Reporting

Section 201.406 Data Reduction

Section 201.407 Retention of Information

Section 201.408 Compliance Schedules

APPENDIX A Rule into Section Table

APPENDIX B Section into Rule Table

APPENDIX C Past Compliance Dates

AUTHORITY: Implementing Sections 10, 39, and 39.5 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/10, 27, 39, and 39.5].

SOURCE: Adopted as Chapter 2: Air Pollution, Part I: General Provisions, in R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R78-3 and 4, R71-23, 4 PCB 75 and 243, at 3 Ill. Reg. 30, p. 124, effective July 28, 1979; amended 35 PCB 75 and 243, at 3 Ill. Reg. 30, p. 124, effective January 21, 1983; codified at 7 Ill. in R80-5, at 7 Ill. Reg. 1244, effective January 21, 1983; codified at 7 Ill. Reg. 13579; amended in R82-1 (Docket A) at 10 Ill. Reg. 12628, effective July 7, 1986; amended in R87-38 at 13 Ill. Reg. 2066, effective February 3, 1989;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

amended in R89-7(A) at 13 Ill. Reg. 19444, effective December 5, 1989; amended in R89-7(B) at 15 Ill. Reg. 17710, effective November 26, 1991; amended in R93-11 at 17 Ill. Reg. 21483, effective December 7, 1993; amended in R94-12 at 18 Ill. Reg. 15002, effective September 21, 1994; amended in R94-14 at 18 Ill. Reg. 15760, effective October 17, 1994; amended in R96-17 at 21 Ill. Reg. 7878, effective June 17, 1997; amended in R98-13 at 22 Ill. Reg. 11451, effective June 24, 1998; amended in R98-28 at 22 Ill. Reg. 11828, effective **JUL 31 1998**.

NOTE: In this Part, unless the context clearly indicates otherwise, superscript numbers or letters are denoted by parentheses and subscript are denoted by brackets.

SUBPART A: DEFINITIONS

Section 201.103 Abbreviations and Units

a) The following abbreviations have been used in this Part:

btu or Btu	British thermal units (60° F)
gal	gallons
hp	horsepower
hr	hour
gal/mo	gallons per month
gal/yr	gallons per year
kPa	kilopascals
kPa absolute	kilopascals absolute
kW	kilowatts
l	liters
Mg	megagrams
m(3)	cubic meters
mm Or M	million
MW	megawatts; one million watts
NMOC	nonmethane organic compounds
psi	pounds per square inch
psia	pounds per square inch absolute
Yr	year

b) The following conversion factors have been used in this Part:

English	Metric
1 gal	3.785 l
1000 gal	3.785 m(3) cubic-meters
1 hp	0.7452 kW
1 mmbtu/hr	0.293 MW
1 psi	6.897 kPa

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 22 Ill. Reg. 11829 effective 03-01-99)

SUBPART C: PROHIBITIONS

Section 201.146 Exemptions from State Permit Requirements

Construction or operating permits, pursuant to Sections 201.142, 201.143 and 201.144 of this Part, are not required for the classes of equipment and activities listed below in this Section. The permitting exemptions in this Section do not relieve the owner or operator of any source from any obligation to comply with any other applicable requirements, including the obligation to obtain a permit pursuant to Sections 9.1(d) and 39.5 of the Act, Sections 165, 173 and 502 of the Clean Air Act or any other applicable permit or registration requirements.

- a) Air contaminant detectors or recorders, combustion controllers or combustion shutoffs;
- b) Air conditioning or ventilating equipment not designed to remove air contaminants generated by or released from associated equipment;
- c) Each fuel burning emission unit for indirect systems and for heating and reheating furnace systems used exclusively for residential, or commercial establishments using gas and/or fuel oil exclusively with a design heat input capacity of less than 14.6 MW (50 mmBtu/hr), except that a permit shall be required for any such emission unit with a design heat input capacity of at least 10 mmBtu/hr that was constructed, reconstructed or modified after June 9, 1989 and that is subject to 40 CFR 60, Subpart D;
- d) Each fuel burning emission unit other than those listed in subsection (c) of this Section for direct systems used for comfort heating purposes and indirect heating systems with a design heat input capacity of less than 2930 kW (10 mmBtu/hr);
- e) Internal combustion engines or boilers (including the fuel system) of motor vehicles, locomotives, air craft, watercraft, lifttrucks and other vehicles powered by nonroad engines;
- f) Bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including associated laboratory fume hoods, vacuum producing devices and control devices installed primarily to address potential accidental releases;
- g) Coating operations located at a source using not in excess of 18,925 l (5,000 gal) of coating (including thinner) per year;
- h) Any emission unit acquired exclusively for domestic use, except that a permit shall be required for any incinerator and for any fuel combustion emission unit using solid fuel with a design heat input capacity of 14.6 MW (50 mmBtu/hr) or more;
- i) Any stationary internal combustion engine with a rated power output of less than 1118 kW (1500 horsepower), except that a permit shall be required for any stationary gas turbine engine with a rated heat input at peak load of 10.7 gigajoules/hr (10 mmBtu/hr) or more that is

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

constructed, reconstructed or modified after October 3, 1977 and that is subject to requirements of 40 CFR 60, Subpart GG;

j) Rest room facilities and associated cleanup operations, and stacks or vents used to prevent the escape of sewer gases through plumbing traps;

k) Safety devices designed to protect life and limb, provided that a permit is not otherwise required for the emission unit with which the safety device is associated;

l) Storage tanks for liquids for retail dispensing except for storage tanks that are subject to the requirements of 35 Ill. Adm. Code 215.583(a)(2), 218.583(a)(2) or 219.583(a)(2);

m) Printing operations with aggregate organic solvent usage that never exceeds 2,839 l (750 gal) per year from all printing lines at the source, including organic solvent from inks, dilutents, fountain solutions and cleaning materials;

n) Storage tanks of:

1) Organic liquids with a capacity of less than 37,850 l (10,000 gal), provided the storage tank is not used to store any material listed as a hazardous air pollutant pursuant to Section 112(b) of the Clean Air Act, and provided the storage tank is not subject to the requirements of 35 Ill. Adm. Code 215.583(a)(2), 218.583(a)(2) or 219.583(a)(2);

2) Any size containing exclusively soaps, detergents, surfactants, waxes, glycerin, vegetable oils, greases, animal fats, sweetener, corn syrup, aqueous salt solutions or aqueous caustic solutions, provided an organic solvent has not been mixed with such materials; or

3) Any size containing virgin or re-refined distillate oil, hydrocarbon condensate from natural gas pipeline or storage systems, lubricating oil or residual fuel oils.

o) Threaded pipe connections, vessel manways, flanges, valves, pump seals, pressure relief valves, pressure relief devices and pumps; Sampling connections used exclusively to withdraw materials for testing and analyses;

q) All storage tanks of Illinois crude oil with capacity of less than 151,400 l (40,000 gal) located on oil field sites;

r) All organic material-water single or multiple compartment effluent water separator facilities for Illinois crude oil of vapor pressure of less than 34.5 kPa absolute (5 psia);

s) Grain-handling operations, exclusive of grain-drying operations, with an annual grain through-put not exceeding 300,000 bushels;

t) Grain-drying operations with a total grain-drying capacity not exceeding 750 bushels per hour for 5% moisture extraction at manufacturer's rated capacity, using the American Society of Agricultural Engineers Standard 248.2, Section 9, Basis for Stating Drying Capacity of Batch and Continuous-Flow Grain Dryers;

u) Portable grain-handling equipment and one-turn storage space;

v) Cold cleaning degreasers that are not in-line cleaning machines, where

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

the vapor pressure of the solvents used never exceeds 2 kPa (15 mmHg or 0.3 psi) measured at 38°C (100°F) or 0.7 kPa (5 mmHg or 0.1 psi) at 20°C (68°F);

- w) Coin-operated dry cleaning operations;
- x) Dry cleaning operations at a source that consume less than 30 gallons per month of perchloroethylene;
- y) Brazing, soldering, wave soldering or welding equipment, including associated ventilation hoods;
- z) Cafeterias, kitchens, and other similar facilities, including smokehouses, used for preparing food or beverages, but not including facilities used in the manufacturing and wholesale distribution of food, beverages, food or beverage products, or food or beverage components;

- aa) Equipment for carving, cutting, routing, turning, drilling, machining, sawing, surface grinding, sanding, planing, buffing, sand blast cleaning, shot blasting, shot peening, or polishing ceramic artwork, leather, metals (other than beryllium), plastics, concrete, rubber, paper stock, wood or wood products, where such equipment is either:
 - 1) Used for maintenance activity;
 - 2) Manually operated;
 - 3) Exhausted inside a building; or
 - 4) Vented externally with emissions controlled by an appropriately operated cyclonic inertial separator (cyclone), filter, electro-static precipitator or a scrubber.

- bb) Feed mills that produce no more than 10,000 tons of feed per calendar year, provided that a permit is not otherwise required for the source pursuant to Section 201.142, 201.143 or 201.144;

- cc) Extruders used for the extrusion of metals, minerals, plastics, rubber or wood, excluding:
 - 1) Extruders used in the manufacture of polymers;
 - 2) Extruders using foaming agents or release agents that contain volatile organic materials of Class I or II substances subject to the requirements of Title VI of the Clean Air Act; and

- 3) Extruders processing scrap material that was produced using foaming agents containing volatile organic materials of Class I or II substances subject to the requirements of Title VI of the Clean Air Act.

- dd) Furnaces used for melting metals, other than beryllium, with a brim full capacity of less than 450 cubic inches by volume;

- ee) Equipment used for the melting or application of less than 22,767 kg/yr (50,000 lbs/yr) of wax to which no organic solvent has been added;

- ff) Equipment used for filling drums, pails or other packaging containers, excluding aerosol cans, with soaps, detergents, surfactants, lubricating oils, waxes, vegetable oils, greases, animal fats, glycerin, sweeteners, corn syrup, aqueous salt solutions or aqueous caustic solutions, provided an organic solvent has not been mixed with such materials;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- gg) Loading and unloading systems for railcars, tank trucks, or aircraft that handle only the following liquid materials: soaps, detergents, surfactants, lubricating oils, waxes, glycerin, vegetable oils, greases, animal fats, sweetener, corn syrup, aqueous salt solutions or aqueous caustic solutions, provided an organic solvent has not been mixed with such materials;

- hh) Equipment used for the mixing and blending of materials at ambient temperatures to make water based adhesives, provided each material mixed or blended contains less than 5% organic solvent by weight;

- ii) Die casting machines where a metal or plastic is formed under pressure in a die located at a source with a through-put of less than 2,000,000 lbs of metal or plastic per year, in the aggregate, from all die casting machines;

- jj) Air pollution control devices used exclusively with other equipment that is exempt from permitting, as provided in this Section;

- kk) An emission unit for which a registration system designed to identify sources and emission units subject to emission control requirements is in place, such as the registration system found at 35 Ill. Adm. Code 218.586 (Gasoline Dispensing Operations - Motor Vehicle Fueling Operations) and 35 Ill. Adm. Code 218, Subpart HH (Motor Vehicle Refinishing);

- ll) Photographic process equipment by which an image is reproduced upon material sensitized to radiant energy;

- mm) Equipment used for hydraulic or hydrostatic testing;

- nn) General vehicle maintenance and servicing activities conducted at a source, motor vehicle repair shops, and motor vehicle body shops, but not including:
 - 1) Gasoline fuel handling; and
 - 2) Motor vehicle refinishing.

- oo) Equipment using water, water and soap or detergent, or a suspension of abrasives in water for purposes of cleaning or finishing, provided no organic solvent has been added to the water;

- pp) Administrative activities including, but not limited to, paper shredding, copying, photographic activities and blueprinting machines. This does not include incinerators;

- qq) Laundry dryers, extractors, and tumblers processing that have been cleaned with water solutions of bleach or detergents that are:
 - 1) Located at a source and process clothing, bedding and other fabric items used at the source, provided that any organic solvent present in such items before processing that is retained from cleanup operations shall be addressed as part of the VOM emissions from use of cleaning materials;
 - 2) Located at a commercial laundry; or
 - 3) Coin operated.

- rr) Housekeeping activities for cleaning purposes, including collecting spilled and accumulated materials, including operation of fixed vacuum cleaning systems specifically for such purposes, but not including use of cleaning materials that contain organic solvent;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- ss) Refrigeration systems, including storage tanks used in refrigeration systems, but excluding any combustion equipment associated with such systems;
- tt) Activities associated with the construction, on-site repair, maintenance or dismantlement of buildings, utility lines, pipelines, wells, excavations, earthworks and other structures that do not constitute emission units;
- uu) Piping and storage systems for natural gas, propane and liquefied petroleum gas;
- vv) Water treatment or storage systems, as follows:
- 1) Systems for potable water or boiler feedwater;
 - 2) Systems, including cooling towers, for process water, provided that such water has not been in direct or indirect contact with process streams that contain volatile organic material or materials listed as hazardous air pollutants pursuant to Section 112(b) of the Clean Air Act.
- ww) Lawn care, landscape maintenance and grounds keeping activities;
- xx) Containers, reservoirs or tanks used exclusively in dipping operations to coat objects with oils, waxes or greases, provided no organic solvent has been mixed with such materials;
- yy) Use of consumer products, including hazardous substances as that term is defined in the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.), where the product is used at a source in the same manner as normal consumer use;
- zz) Activities directly used in the diagnosis and treatment of disease, injury or other medical condition;
- aaa) Activities associated with the construction, repair or maintenance of roads or other paved or open areas, including operation of street sweepers, vacuum trucks, spray trucks and other vehicles related to the control of fugitive emissions of such roads or other areas;
- bbb) Storage and handling of drums or other transportable containers, where the containers are sealed during storage and handling;
- ccc) Activities at a source associated with the maintenance, repair or dismantlement of an emission unit or other equipment installed at the source, not including the shutdown of the unit or equipment, including preparation for maintenance, repair or dismantlement, and preparation for subsequent startup, including preparation of a shutdown vessel for entry, replacement of insulation, welding and cutting, and steam purging of a vessel prior to startup;
- ddd) Equipment used for corona arc discharge surface treatment of plastic with a power rating of 5 kW or less or equipped with an ozone destruction device;
- eee) Equipment used to seal or cut plastic bags for commercial, industrial or domestic use; and
- fff) Each direct-fired gas dryer used for a washing, cleaning, coating or printing line, excluding:
- 1) Dryers with a rated heat input capacity of 2930 kW (10 mmbtu/hr) or more; and

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 2) Dryers for which emissions other than those attributable to combustion of fuel in the dryer, including emissions attributable to use or application of cleaning agents, washing materials, coatings or inks or other process materials that contain volatile organic material are not addressed as part of the permitting of such line, if a permit is otherwise required for the line; and-
- ggg) Municipal solid waste landfills with a maximum total design capacity of less than 2.5 million Mg or 2.5 million m(3) that are not required to install a gas collection and control system pursuant to 35 Ill. Adm. Code 220 or 800 through 849 or Section 9.1 of the Act.

(Source: Amended at 22 Ill. Reg. 11823, effective July 31 1998)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Emergency Medical Services and Trauma Center Code

2) Code Citation: 77 Ill. Adm. Code 515

3) Section Numbers: Adopted Action:

515.320 Amendments
515.370 Amendments
515.420 Amendments
515.440 Amendments
515.510 Amendments
515.520 Amendments
515.540 Amendments
515.725 New Section
515.2000 Amendments
515.2040 Amendments
515.2050 Amendments
515.2060 Amendments
515.Appendix C Amendments
515.Appendix F Amendments

4) Statutory Authority: Emergency Medical Services (EMS) Systems Act (210 ILCS 50)

5) Effective Date of Rules: June 25, 1998

6) Does this Rulemaking Contain an Automatic Repeal Date? No

7) Does this Rulemaking Contain Any Incorporations By Reference? No

8) Date Filed in Agency's Principal Office: June 25, 1998

9) Date Notice(s) of Proposal was Published in Illinois Register: November 21, 1997 - 21 Ill. Reg. 14817

10) Has the Joint Committee on Administrative Rules issued a Statement of Objections to this/these Rules? No

11) Difference Between Proposal and Final Version: The following changes were made in response to comments received during the first notice or public comment period:

No substantive changes were made during the first notice period.

The following changes were made in response to comments and suggestions of the Joint Committee on Administrative Rules:

1. In Section 515.725(a), "external" was added after "AUTOMATED" and "(AED)" was added after "(DEFIBRILLATOR)".

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

2. In Section 515.725(f), a sentence was added before "TO" as follows:

"A First Responder - AED registration shall be valid for a period of four years."

3. In Section 515.725(j), "-AED" was added after "Responder"; the comma after "test" was replaced with a period, and the remainder of the text was deleted.

In addition, various typographical, grammatical and form changes were made in response to the comments from the Administrative Code Division and the Joint Committee on Administrative Rules.

12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee? The Department has made all the changes to which it agreed with the Joint Committee.

13) Will the Rules Replace an Emergency Rule Currently in Effect? No

14) Are there any other Amendments Pending on this Part? Yes

If Yes:

Section Numbers	Proposed Action	Ill. Reg. Citation
515.210	Amendments	22 Ill. Reg. 3745
515.220	Amendments	22 Ill. Reg. 3745
515.300	Amendments	22 Ill. Reg. 3745
515.315	New Section	22 Ill. Reg. 3745
515.2000	Amendments	22 Ill. Reg. 3745

15) Summary and Purpose of Rules:

Section 515.320 ("Scope of EMS Service") is being amended to add a provision concerning conflict of interest, which was in the former rules under Part 535 but was inadvertently omitted from Part 515.

Section 515.370 ("Automated Defibrillation") is being amended to add First Responders.

Section 515.420 ("System Participation Suspensions") is being amended to require the EMS Medical Director to prepare and post the System Review Board List in a 24-hour accessible location at the Resource Hospital.

Section 515.440 ("State Emergency Medical Services Disciplinary Review Board") is being amended in response to P.A. 90-144 (effective July 23, 1997) to state that "deliberations for decisions," rather than "meetings"

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

shall be conducted in closed session. The statement that meetings of the Board are exempt from the Open Meetings Act is being deleted.

Sections 515.510 ("Emergency Medical Technician - Intermediate Training") and 515.520 ("Emergency Medical Technician - Paramedic Training") are being amended to include language concerning submission of rosters for training programs.

Section 515.540 ("EMT Licensure") is being amended to include the passing score (at least 70 percent) for EMT-I and EMT-P examinations.

Section 515.725 ("First Responder - AED") is being added to implement P.A. 90-0440, which amended the EMS Act to include provisions under which a person currently approved as a First Responder may use an automated defibrillator. The legislation requires the Department to adopt rules prescribing standards of performance and conduct for such persons. The rules set forth requirements for registration and renewal of registration.

Section 515.2000 ("Trauma Center Designation") is being amended to include a cross-reference to Appendix B ("A Request for Renewal of Trauma Center Designation").

Section 515.2040("Level II Trauma Center Designation") is being amended to add that minutes related to focused outcome analysis shall be provided on site.

Section 515.2050 ("Trauma Center Uniform Reporting Requirements") is being amended to make additions and corrections to the information required on each reportable trauma patient.

Section 515.2060 ("Trauma Patient Evaluation and Transfer") is being amended to make corrections to the Revised Trauma Score.

Section 515.Appendix C ("Minimum Trauma Field Triage Criteria") is being amended to require transport to the nearest hospital in a rural area where there is no comprehensive emergency department and where transport to a Trauma Center or affiliate trauma hospital is greater than 45 minutes.

Section 515.Appendix F ("Template for In-House Triage for Trauma Centers") is being amended to delete unnecessary language in the description of Category II patients. Language is being added concerning transport of Category I patients.

16) Information and Questions regarding this Adopted Rulemaking shall be directed to:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Ms. Gail DeVito
Division of Legal Services
Department of Public Health
535 West Jefferson
Fifth Floor
Springfield, Illinois 62761
217/782-2043.

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

515.965 Watercraft Requirements
 515.970 Watercraft Vehicle Specifications and Operation
 515.975 Watercraft Medical Equipment and Drugs
 515.980 Watercraft Communications and Dispatch Center
 515.985 Off-Road SMSV Requirements
 515.990 Off-Road Vehicle Specifications and Operation
 515.995 Off-Road Medical Equipment and Drugs
 515.1000 Off-Road Communications and Dispatch Center

SUBPART H: TRAUMA CENTERS

Section
 515.2000 Trauma Center Designation
 515.2010 Denial of Application for Designation or Request for Renewal
 515.2020 Inspection and Revocation of Designation
 515.2030 Level I Trauma Center Designation Criteria
 515.2040 Level II Trauma Center Designation Criteria
 515.2050 Trauma Center Uniform Reporting Requirements
 515.2060 Trauma Patient Evaluation and Transfer
 515.2070 Trauma Center Designation Delegation to Local Health Departments
 515.2080 Trauma Center Confidentiality and Immunity
 515.2090 Trauma Center Fund
 515.2100 Pediatric Care

SUBPART I: EMS ASSISTANCE FUND

Section
 515.3000 EMS Assistance Fund Administration
 APPENDIX A A Request for Designation (RFD) Trauma Center
 APPENDIX B A Request for Renewal of Trauma Center Designation
 APPENDIX C Minimum Trauma Field Triage Criteria
 APPENDIX D Standing Medical Orders
 APPENDIX E Minimum Prescribed Data Elements
 APPENDIX F Template for In-House Triage for Trauma Centers

AUTHORITY: Implementing and authorized by the Emergency Medical Services (EMS) Systems Act [210 ILCS 50].

SOURCE: Emergency Rule adopted at 19 Ill. Reg. 13084, effective September 1, 1995 for a maximum of 150 days; emergency expired January 28, 1996; adopted at 20 Ill. Reg. 3203, effective February 9, 1996; emergency amendment at 21 Ill. Reg. 2437, effective January 31, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 5170, effective April 15, 1997; amended at 22 Ill. Reg. 11835, effective JUN 25 1998.

SUBPART C: EMS SYSTEMS

Section 515.320 Scope of EMS Service

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- a) All Basic Life Support (BLS), Intermediate Life Support (ILS), and Advanced Life Support (ALS) services, as defined in the Act, shall be provided through EMS Systems. An individual System shall operate at one or more of those levels of service, as specified in its Program Plan and the Department's letter of approval, using vehicles licensed by the Department pursuant to the Act and this Part.
- b) All pre-hospital, inter-hospital and non-emergency medical care, as defined in the Act, shall be provided through EMS Systems, using the levels of Department licensed or approved personnel required by the Act and this Part.
- c) An EMS System shall designate a Resource Hospital, which shall have the authority and responsibility for the System, through the EMS Medical Director, as described in the Act, this Part and the System Program Plan.
- d) All other hospitals which are located within the geographic boundaries of a System and which have standby, basic or comprehensive level emergency departments must function in that System as either an Associate Hospital or Participating Hospital and follow all System policies specified in the System Program Plan. (Section 3.20(b) of the Act).
 - 1) All hospitals that are not already formally affiliated with a System shall do so within sixty days after April 15, 1997. A hospital may have a secondary affiliation with another System or may request a waiver to participate in a System system other than that in which the hospital is geographically located. (See Section 515.150(d)(5).)
 - 2) Every System hospital shall identify the level of its emergency department services in its letter of commitment, which is part of the EMS System Program Plan to be submitted to the Department.
 - 3) An "Associate Hospital" shall provide the same clinical and communications services as the Resource Hospital, but shall not have the primary responsibility for personnel training and System operations. It shall have a basic or comprehensive emergency department with 24-hour physician coverage and a functioning intensive care and/or cardiac care unit.
 - 4) A "Participating Hospital" may or may not have communications/monitoring capabilities.
 - 5) All System hospitals shall agree to replace medical supplies and provide for equipment exchange for System vehicles.
 - 6) All System hospitals monitoring telecommunications from EMS field personnel shall provide voice orders either by the EMS Medical Director, a physician appointed by the EMS Medical Director, or an Emergency Communications Registered Nurse (ECRN).
 - 7) All System hospitals shall allow the Department, the EMS Medical Director and EMS System Coordinator access to all records, equipment, vehicles and personnel during their activities evaluating the Act and this Part.
- e) The Resource Hospital shall appoint an EMS Medical Director (EMSMD).

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

For an ILS or ALS level EMS System the EMSMD shall be a physician licensed to practice medicine in all of its branches in Illinois, and certified by the American Board of Emergency Medicine or the American Board of Osteopathic Emergency Medicine, and for a BLS level EMS System the EMSMD shall be a physician licensed to practice medicine in all of its branches in Illinois, with regular and frequent involvement in pre-hospital emergency medical services. In addition, all EMSMDs shall:

- 1) Have experience on an EMS vehicle at the highest level available within the System, or make provision to gain such experience within 12 months prior to the date responsibility for the System is assumed or within 90 days after assuming the position; and
- 2) Be thoroughly knowledgeable of all skills included in the scope of practices of all levels of EMS personnel within the System; and
- 3) Have or make provision to gain experience instructing students at a level similar to that of the levels of EMS personnel within the System; and
- 4) For ILS and ALS EMS Medical Directors, successfully complete a Department-approved EMS Medical Director's Course. (Section 3.20(c)(6) of the Act)
- f) The EMS Medical Director shall appoint an alternate EMS Medical Director and establish a written protocol addressing the functions to be carried out in his or her absence. (Section 3.35(b) of the Act);
- g) An EMS System utilizing Specialized Emergency Medical Service Vehicles (SEMSVs) shall appoint and/or approve the SEMSV Medical Director(s) to manage and direct the use of SEMSVs and their personnel within the System. He or she shall be a physician who has met at least the following qualifications:

- 1) One or more of the following:
 - A) Certified by the American Board of Emergency Medicine (ABEM) or American Osteopathic Board of Emergency Medicine (AOBEM) through the American Osteopathic Association (AOA); or
 - B) Completion of a residency in emergency or osteopathic emergency medicine as prescribed by one of the above Boards; or
 - C) Completion of a 12-month internship followed by 60 months plus 7,000 hours of hospital based emergency or osteopathic emergency medicine (2,800 of the 7,000 hours must be completed within one 24-month period), and documentation of 50 hours of related continuing education for each complete year of practice; and
- 2) Completion of advanced cardiac life support and advanced trauma life support courses; and
- 3) For aircraft programs, completion of training covering inflight treatment modalities, altitude physiology, and infection; and
- 4) For watercraft programs, completion of training covering diving accident physiology and treatment, and drowning in cold, warm,

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

fresh and salt water.

h) The Resource Hospital shall appoint a full-time EMS System Coordinator, who shall be responsible for coordinating the educational and functional aspects of the System, as described in the Program plan. He or she shall be a registered professional nurse or EMT-P licensed in the State of Illinois, and meet at least the following qualifications:

- 1) Be trained and knowledgeable in dysrhythmia identification and treatment,
 - 2) Have a diverse background in critical care, and
 - 3) Within one year after being appointed, complete in-field observation and/or participation on at least 10 ambulance runs at the highest level of service provided by the System.
- i) The Resource Hospital shall appoint an EMS Administrative Director, who shall be responsible for administrative operations of the System as described in the Program Plan.

11) To avoid any conflict of interest, the EMS Medical Director, EMS System Coordinator and EMS Administrative Director shall notify the Department in writing of any association with an ambulance service provider through employment, contract, ownership, or otherwise specifying how he or she is answerable to or directed by such ambulance service provider concerning any matter falling within the scope of the Act or this Part. The Department shall review and address potential or actual conflicts of interest on a case-by-case basis.

(Source: Amended at 22 Ill. Reg. 11835, effective JAN 25 1998)

Section 515.370 Automated Defibrillation

- a) Automated Defibrillator Operation training is a mandatory component of the EMT-P training established by Section 515.520 of this Part. Separate course approval is therefore not necessary.
- b) To be approved by the Department, a First Responder, an EMT-B or EMT-I Automated Defibrillator Operation course shall include the following:
 - 1) A curriculum based on Section 9 of the United States Department of Transportation, Emergency Medical Technician-Intermediate: National Standard Curriculum;
 - 2) A requirement that the First Responder, EMT-B or EMT-I shall pass both a written and a practical examination as a condition of completing the course. The examinations shall be developed and evaluated by the EMS Medical Director or designee and shall be designed to measure the First Responder's or EMT's knowledge and skills to operate an automated defibrillator safely and effectively.
- c) A System may include the course in Automated Defibrillator Operation as part of an initial First Responder, EMT-B or EMT-I license training

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

program or may offer such training to persons already approved as First Responders or licensed as an EMT-B or EMT-I.

(Source: Amended at 22 Ill. Reg. 1.133, effective JUN 28 1990)

Section 515.420 System Participation Suspensions

- a) An EMS Medical Director may suspend from participation within the System any individual, individual provider or other participant considered not to be meeting the requirements of the Program Plan of that approved EMS System. (Section 3.40(a) of the Act)
- b) Except as allowed in subsection (1) of this Section, the EMS Medical Director shall provide the individual, individual provider or other participant with a written explanation of the reason for the suspension; the terms, length, and condition of the suspension; and the date the suspension will commence, unless a hearing is requested. The procedure for requesting a hearing within 15 days through the Local System Review Board shall be provided.
- c) Failure to request a hearing within 15 days shall constitute a waiver of the right to a Local System Review Board hearing.
- d) The Resource Hospital shall designate the Local System Review Board, consisting of at least three members, one of whom is an emergency department physician with knowledge of EMS, one of whom is an EMT and one of whom is of the same professional category as the individual, individual provider or other participant requesting the hearing. (Section 3.40(e) of the Act) The EMS Medical Director shall prepare and post, in a 24-hour accessible location at the Resource Hospital, the System Review Board List.
- e) The hearing shall commence as soon as possible but at least within 21 days after receipt of a written request. The EMS Medical Director shall arrange for a certified shorthand reporter to make a stenographic record of that hearing and thereafter prepare a transcript of the proceedings. The transcript, all documents or materials received as evidence during the hearing and the Local System Review Board's written decision shall be retained in the custody of the EMS System. The System shall implement a decision of the Local System Review Board unless that decision has been appealed to the State Emergency Medical Services Disciplinary Review Board in accordance with the Act and this Part. (Section 3.40(e) of the Act)
- f) The Local System Review Board shall state in writing its decision to affirm, modify or reverse the suspension order. Such decision shall be sent via certified mail or personal service to the EMS Medical Director and the individual, individual provider or other participant who requested the hearing within five business days after the conclusion of the hearing.
- g) The transcripts, all documents or materials received as evidence during the hearing and the Local System Review Board's written

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- h) decision shall be retained in the custody of the EMS System. The EMS Medical Director shall notify the Department, in writing, within five business days after the Board's decision to either uphold, modify or reverse the EMS Medical Director's suspension of an individual, individual provider or participant. The notice shall include a statement detailing the duration and grounds for the suspension.
- i) If the Local System Review Board affirms or modifies the EMS Medical Director's suspension order, the individual, individual provider or other participant shall have the opportunity for a review of the Local Board's decision of the State EMS Disciplinary Review Board. (Section 3.40(b)(1) of the Act)
- j) If the Local System Review Board reverses or modifies the EMS Medical Director's suspension order, the EMS Medical Director shall have the opportunity for review of the Local Board's decision by the State EMS Disciplinary Review Board. (Section 3.40(b)(2) of the Act)
- k) Requests for review by the State EMS Disciplinary Review Board shall be submitted in writing to the Chief of the Department's Division of Emergency Medical Services and Highway Safety, within 10 days after receiving the Local Board's decision or the EMS Medical Director's suspension order, whichever is applicable. A copy of the Board's decision or the suspension order shall be enclosed. (Section 3.45(h) of the Act)
- l) An EMS Medical Director may immediately suspend an individual, individual provider or other participant if he or she finds that the information in his or her possession indicates that the continuation in practice by an EMT or other provider would constitute an imminent danger to the public. The suspended EMT or other provider shall be issued an immediate verbal notification followed by a written suspension order to the EMT or other provider by the EMS Medical Director which states the length, terms and basis for the suspension. (Section 3.40(c) of the Act)
- 1) Within 24 hours following the commencement of the suspension, the EMS Medical Director shall deliver to the Department, by messenger or telefax, a copy of the suspension order and copies of any written materials which relate to the EMS Medical Director's decision to suspend the EMT or provider.
- 2) Within 24 hours following the commencement of the suspension, the suspended EMT or provider may deliver to the Department, by messenger or telefax, a written response to the suspension order and copies of any written materials which the EMT or provider feels relate to that response.
- 3) Within 24 hours following receipt of the EMS Medical Director's suspension order or the EMT's or provider's written response, whichever is later, the Director or the Director's designee shall determine whether the suspension should be stayed pending the EMT's or provider's opportunity for hearing or review in accordance with the Act, or whether the suspension should

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

continue during the course of that hearing or review. The Director or the Director's designee shall issue this determination to the EMS Medical Director, who shall immediately notify the suspended EMT or provider. The suspension shall remain in effect during this period of review by the Director or the Director's designee. (Section 3.40(c) of the Act)

(Source: Amended at 22 Ill. Reg. 11835, effective JUN 25 1998)

Section 515.440 State Emergency Medical Services Disciplinary Review Board

- a) The Governor shall appoint a State Emergency Medical Service Disciplinary Review Board in accordance with Section 3.45 of the Act. (Section 3.45(a) of the Act)
- b) The Board shall regularly meet on the first Tuesday of every month, unless no requests for review have been submitted. Additional meetings of the Board shall be scheduled as necessary to insure that a request for direct review of an immediate suspension order is scheduled within 14 days after the Department receives the request for review or as soon thereafter as a quorum is available. The Board shall meet in Springfield or Chicago, whichever location is closer to the majority of the members or alternates attending the meeting. (Section 3.45(g) of the Act)
- c) At its regularly scheduled meetings, the Board shall review requests which have been received by the Department at least 10 working days prior to the Board's meeting date. Requests for review which are received less than 10 working days prior to a scheduled meeting shall be considered at the Board's next scheduled meeting, except that requests for direct review of an immediate suspension order may be scheduled up to 3 working days prior to the Board's meeting date. (Section 3.45(i) of the Act)
- d) A quorum shall be required for the Board to meet, which shall consist of 3 members or alternates, including the EMS Medical Director or alternate and the member or alternate from the same professional category as the subject of the suspension order. At each meeting of the Board, the members or alternates present shall select a Chairperson to conduct the meeting. (Section 3.45(j) of the Act)
- e) Deliberations for decisions Meetings of the State EMS Disciplinary Review Board shall be conducted in closed session. Department staff may attend for the purpose of providing clerical assistance, but no other persons may be in attendance except for the parties to the dispute being reviewed by the Board and their attorneys, unless by request of the Board. Meetings-of-the-Board-shall-be-exempt-from-the-provisions-of-the-Open-Meetings-Act- (Section 3.45(k) of the Act)
- f) The Board shall review the transcript, evidence and written decision of the local review board or the written decision and supporting documentation of the EMS Medical Director, whichever is applicable,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

along with any additional written or verbal testimony or argument offered by the parties to the dispute. (Section 3.45(l) of the Act)

g) At the conclusion of its review, the Board shall issue its decision and the basis for its decision on a form provided by the Department, and shall submit to the Department its written decision together with the record of the Local System Review Board. The Department shall promptly issue a copy of the Board's decision to all affected parties. The Board's decision shall be binding on all parties. (Section 3.45(m) of the Act)

(Source: Amended at 22 Ill. Reg. 11835, effective JUN 25 1998)

SUBPART D: EMERGENCY MEDICAL TECHNICIANS

Section 515.510 Emergency Medical Technician-Intermediate Training

- a) An EMT-I training program shall be conducted only by an EMS System or a community college under the direction of the EMS System.
- b) Applications for approval of EMT-I Training Programs shall be filed with the Department on forms prescribed by the Department. The application shall contain, at a minimum, name of applicant, agency and address, type of training program, lead instructor's name and address, dates of training program, and names and signatures of the EMS Medical Director and EMS System Coordinator.
- c) Applications for approval, including a copy of the class schedule and course syllabus, shall be submitted at least 60 days in advance of the first scheduled class.
- d) The EMS Medical Director of the EMS System shall attest on the application form that the training program shall be conducted according to the United States Department of Transportation's National Standard Curriculum. Minimum sections shall include #1 through #8.
- e) The EMT-I training program shall be under the direction of the EMS Medical Director and the EMS System Coordinator.
- f) The EMS System shall designate an EMS Lead Instructor, who shall be approved by the Department based on the requirements of Section 515.700.
- g) The EMS Lead Instructor shall be an EMT-I, an EMT-P, a Registered Nurse or a physician and shall have four years of experience in emergency care as a provider and two years of teaching experience in a classroom setting.
- h) Any change excluding an emergency change (e.g., weather or instructor illness) in the EMT-I training program's EMS Medical Director, EMS System Coordinator and/or EMS Lead Instructor shall require an amendment to be filed with the Department.
- i) A candidate for an EMT-I training program must have a current Illinois EMT-B license.
- j) Before a candidate is accepted into the program, documentation must be

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

submitted that an EMS System vehicle will be available to accommodate field experience.

- k) Each approved training program shall submit a student roster within 10 days after the first class as well as a student roster indicating successful or unsuccessful completion within 10 days after the last class. An examination roster shall be submitted to the Department prior to the deadline date for examination.

- l) After an EMT-I candidate has completed and passed all components of the training program, and passed the Department's exam or the National Registry examination, the EMSMD shall submit to the Department a transaction card (Form No. IL 482-0837) concerning that individual.

- m) All approved programs shall maintain class and student records for seven years, and these shall be made available to the Department upon request.

(Source: Amended at 22 Ill. Reg. 11835, effective JUN 25 1998)

Section 515.520 Emergency Medical Technician-Paramedic Training

- a) An EMT-P training program shall be conducted only by an EMS System or a community college under the direction of the EMS System.

- b) Applications for approval of EMT-P training programs shall be filed with the Department on forms prescribed by the Department. The application shall contain, at a minimum, name of applicant, agency and address, type of training program, dates of training program, and names and signatures of the EMS Medical Director and EMS System Coordinator.

- c) Applications for approval, including a copy of the class schedule and course syllabus, shall be submitted at least 60 days in advance of the first scheduled class.

- d) The EMS Medical Director of the EMS System shall attest on the application form that the training program shall be conducted according to the United States Department of Transportation's National Standard Curriculum. The EMT-P training program shall include all components of the National Standard Curriculum.

- e) The EMT-P training program's lead coordinators shall be the EMS Medical Director and the EMS System Coordinator.

- f) Any change excluding an emergency change (e.g., weather or instructor illness) in the EMT-P training program's EMS Medical Director and/or EMS System Coordinator shall require an amendment to be filed with the Department.

- g) A candidate for an EMT-P training program must have a current Illinois EMT-B or EMT-I license.

- h) Before a candidate is accepted into the program, documentation must be submitted that an EMS System vehicle will be available to accommodate field experience and internship needs.

- i) Each approved training program shall submit a student roster within 10

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

days after the first class as well as a student roster indicating successful or unsuccessful completion within 10 days after the last class. An examination roster shall be submitted to the Department prior to the deadline date for examination.

- j) After an EMT-P candidate has completed and passed all components of the training program, and passed the Department or National Registry examination, the EMSMD shall submit to the Department a transaction card (Form No. IL 482-0837) concerning that individual.

- k) All approved programs shall maintain class and student records for seven years, and these shall be made available to the Department upon request.

(Source: Amended at 22 Ill. Reg. 11835, effective JUN 25 1998)

Section 515.540 EMT Licensure

- a) To be licensed by the Department as an EMT-B, an individual must:

- 1) Pass either the National Registry of Emergency Medical Technicians examination or the Department's EMT-B examination with a score of at least 70 percent.

- 2) Be functioning within a State-approved EMS System providing basic life support services, as verified by that System's EMS Medical Director.

- b) To be licensed by the Department as an EMT-I, an individual must:

- 1) Pass either the National Registry of Emergency Medical Technicians examination or the Department's EMT-I examination with a score of at least 70 percent.

- 2) Be functioning within a State-approved EMS System providing intermediate life support services, as verified by that System's EMS Medical Director.

- c) To be licensed by the Department as an EMT-P, an individual must:

- 1) Pass either the National Registry of Emergency Medical Technicians examination or the Department's EMT-P examination with a score of at least 70 percent.

- 2) Be functioning within a State-approved EMS System providing advanced life support services, as verified by that System's EMS Medical Director.

- d) An EMT license will specify the level of licensure, i.e., EMT-B, EMT-I OR EMT-P, and will be effective for a period of four years.

(Source: Amended at 22 Ill. Reg. 11835, effective JUN 25 1998)

SUBPART E: EMS LEAD INSTRUCTOR, EMERGENCY MEDICAL DISPATCHER, FIRST RESPONDER, PRE-HOSPITAL REGISTERED NURSE, EMERGENCY COMMUNICATIONS REGISTERED NURSE, AND TRAUMA NURSE SPECIALIST

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section 515.725 First Responder - AED

- a) A person currently approved as a First Responder may utilize an automated external defibrillator (AED) if the First Responder:
- 1) Has successfully completed a Department approved course in automated defibrillator operation; and
 - 2) Is functioning within a Department approved EMS System providing first response services as verified by the EMSMD. (Section 3.55(a-5) of the Act)
- b) Continuing education classes, seminars, clinical time, workshops or other types of programs shall be approved by the Department before being offered to First Responder - AEDs. An application for approval shall be submitted to the Department on a form prescribed, prepared and furnished by the Department, at least 60 days prior to the scheduled event.
- c) Approval will be granted provided the application is complete and the content of the program is based on topics or materials from the United States Department of Transportation National Standard Curriculum for First Responder - AEDs. Upon approval, the Department will issue a site code to the class, seminar, workshop or program.
- d) A First Responder - AED shall be responsible for submitting written proof of continuing education attendance to the EMS System Coordinator or the Department Regional EMS Coordinator. The EMS System Coordinator or Department Regional EMS Coordinator shall be solely responsible for verifying whether specific continuing education hours have been earned by the First Responder - AED.
- e) A First Responder - AED shall be responsible for maintaining copies of all documentation concerning continuing education programs that he or she has completed.
- f) A First Responder - AED registration shall be valid for a period of four years. To be re-registered as a First Responder - AED, the First Responder - AED shall file an application for renewal with the Department, on a form prescribed by the Department, at least 30 days prior to the license expiration date.
- 1) The submission of a transaction card (Form No. IL 482-0837) by the EMS Medical Director will satisfy the renewal application requirement for a First Responder - AED who has been recommended for re-registration by the EMS Medical Director.
 - 2) A First Responder - AED who has not been recommended for re-registration by the EMS Medical Director must independently submit to the Department an application for renewal. The EMS Medical Director shall provide the First Responder - AED with a copy of the appropriate form to be completed.
- g) A written recommendation signed by the EMSMD must be provided to the Department regarding completion of the following requirements:
- 1) Twenty-four hours of continuing education every four years. The System shall define in the EMS Program Plan the number of continuing education hours to be accrued each year for

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- re-registration; and
- 2) A current CPR completion card that covers:
 - A) Adult one-rescuer CPR,
 - B) Adult foreign body airway obstruction management,
 - C) Pediatric one-rescuer CPR,
 - D) Pediatric foreign body airway obstruction management, and
 - E) Adult two-rescuer CPR.

- h) At any time prior to the expiration of the current registration, a First Responder - AED may revert to First Responder status for the remainder of the registration period. The First Responder must make this request in writing to the Department. To re-register at the First Responder - AED level, the individual must meet the First Responder - AED requirements for re-registration.
- i) A First Responder - AED who has reverted to First Responder status may be subsequently re-registered as a First Responder - AED, upon the recommendation of an EMS Medical Director who has verified that the individual's knowledge and clinical skills are at an active First Responder - AED level, and that the individual has completed any retraining, education or testing deemed necessary by the EMSMD for resuming First Responder - AED activities.
- j) Any First Responder - AED whose registration has expired for a period of more than 60 days shall be required to reapply for registration, complete the training program and pass the test.
- k) A First Responder - AED whose registration has expired may, within 60 days after registration expiration, submit all re-registration material as required in this Part and a fee of \$50 in the form of a certified check or money order (cash or personal check will not be accepted). If all material is in order and there is no disciplinary action pending against the First Responder - AED, the Department will re-register the First Responder - AED.

(Source: Added at 22 Ill. Reg. effective
JUN 26 1998)

SUBPART H: TRAUMA CENTERS

Section 515.2000 Trauma Center Designation

- a) The Department shall attempt to designate trauma centers in all areas of the State. There shall be at least one Level I Trauma Center serving each EMS Region, unless waived by the Department. Level I Trauma Centers shall serve as resources for Level II Trauma Centers in the EMS Regions. The extent of such relationships shall be defined in the EMS Region plan. (Section 3.90(b)(5) of the Act)
- b) Any hospital seeking designation as a Level I or Level II Trauma Center shall submit an application form (see Section 515. Appendix A of this Part) as prescribed by the Department.
- c) Upon receipt of a completed application, the Department shall conduct

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

a *site visit* to determine compliance with the Act and this Part. A *report of the inspection shall be provided to the Director within 30 days of the completion of the site visit.* (Section 3.90(b)(3) of the Act)

d) *The Department shall designate those applicant hospitals as Level I or Level II Trauma Centers which meet the requirements established by the Act and this Part. Beginning September 1, 1997 the Department shall designate a new Trauma Center only when a local or Regional need for such a Trauma Center has been identified by the applicable EMS Region's Trauma Center Medical Directors Committee, with advice from the Regional Trauma Advisory Committee.* (Section 3.90(b)(4) of the Act)

e) A Trauma Center designation shall be for two years.

f) All requests for renewal of Trauma Center designations shall be filed in writing (see Section 515.2 Appendix B of this Part) with the Department before the designation expiration date. If the renewal request meets the requirements of this Part, the existing designation shall continue in full force and effect until a final Department decision on the renewal request has been issued.

g) Any level Trauma Center may voluntarily terminate its designation prior to its expiration date by notifying the Department in writing. Such notification shall include the anticipated date of termination, which shall not exceed 60 days after notice is received by the Department, and shall describe the procedures taken by the Trauma Center to notify the providers, hospitals, EMS systems and other Trauma Centers in the EMS region.

h) *No facility shall use the phrase "Trauma Center" or words of similar meaning in relation to itself or hold itself out as a Trauma Center without first obtaining designation pursuant to the Act and this Part.* (Section 3.105 of the Act)

(Source: Amended at 22 Ill. Reg. 11835, effective JUN 26 1998)

Section 515.2040 Level II Trauma Center Designation Criteria

a) A Level II Trauma Center, under the direction of a Level II Trauma Center Medical Director, shall be responsible for providing trauma care in accordance with the EMS System Program Plan.

b) The Trauma Center Medical Director shall be a trauma surgeon, board certified in surgery, with at least one year of experience in trauma care and with 24-hour independent operating privileges.

c) The trauma center shall provide a trauma service separate from the general surgery service, which is an identified hospital service functioning under a designated director and staffed by trauma surgeons with one year of experience in trauma, and who will arrive at the hospital to treat the trauma patient within 30 minutes after the patient's being classified as a Category I trauma patient.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) The trauma surgeon requirement may be fulfilled by residents with a minimum of four years of general surgery residency training.

2) If the resident is fulfilling the trauma surgeon requirement, the attending physician must be consulted within 30 minutes after the patient's being classified as Category I or II.

3) If the resident is fulfilling the trauma surgeon requirement, it is mandatory that an attending be present for patients undergoing operative procedures by the time the surgery begins.

4) The trauma surgeon, resident or surgical subspecialist will be consulted when the decision is made to admit a Category II patient. The trauma surgeon or appropriate subspecialist will see the patient within 12 hours after ED arrival.

5) The hospital's quality improvement program shall monitor compliance with this subsection (c).

6) The trauma center shall maintain a call schedule that identifies at least a primary and back-up surgeon, each listed by surgeon's name.

7) The trauma center shall have the option of allowing the ED personnel to determine that a trauma patient with an isolated injury may be treated by one of the services listed in subsection (d) or (e) of this Section. Any patient meeting the definition of isolated injury requires consultation with the appropriate subspecialist within 60 minutes after the notification that his or her services are needed at the hospital. When the need for neurosurgical intervention has been identified, the neurosurgeon must arrive and be available in a fully staffed operating room within 60 minutes after the identification of need for operative intervention. An isolated injury refers to the transfer of energy to a single specific anatomic body region with no potential for multisystem involvement.

d) The trauma center shall have the following surgical services on call to arrive at the hospital to treat the patient within 60 minutes after notification that their services are needed:

1) Cardiothoracic; this requirement may be fulfilled by a cardiothoracic surgeon or a trauma/general surgeon with experience in cardiothoracic surgery for lifesaving procedures; the surgeon must have cardiothoracic privileges;

2) Obstetrics;

3) Orthopedic; and

4) Urologic.

e) The trauma center shall have the following surgical specialties on call to arrive at the hospital to treat the patient within 60 minutes after notification that their services are needed. These services may be provided by written transfer agreement. These services must be provided according to subsection (c)(7) of this Section for isolated injuries when the trauma surgeon is not required to respond:

1) Neurosurgical;

2) Ophthalmologic;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 3) Oral-Dental;
 - 4) Otorhinolaryngologic;
 - 5) Reimplantation;
 - 6) Plastic/Maxillofacial;
 - 7) Burn center staffed by Registered Nurses trained in burn care;
 - 8) Acute spinal cord injury management; and
 - 9) Pediatric surgery.
- f) The trauma center shall provide the following nonsurgical services within the designated times:
- 1) Emergency Medicine staffed 24 hours a day in the ED by:
 - A) A physician who has competency in trauma as demonstrated by:
 - i) Board certification by the ABEM; or
 - ii) Completion of 12 months of internship, followed by at least 7000 hours of hospital-based Emergency Medicine over at least a 60-month period (including 2800 hours within one 24-month period), verified in writing by the hospital(s) at which the internship and subsequent hours were completed, and continuing medical education in Emergency Medicine totalling 50 hours for each post-internship year in which the physician completed any hospital-based Emergency Medicine hours (the physician may attend less than 50 hours in any given year provided the total number averages 50 hours per year of practice); or
 - iii) Completion of a residency in Emergency Medicine in a residency program approved by the Residency Review Committee for Emergency Medicine or the Council on Postdoctoral Training (COPT) for the AOA; and
 - B) An osteopathic physician certified by the AOBEM of the AOA.
- 2) Anesthesiology Services:
- A) Anesthesiology services shall be in compliance with the Hospital Licensing Act and the Hospital Licensing Requirements, 77 Ill. Adm. Code 250.1410. Staff shall be on call to arrive at the hospital to administer anesthesia within 30 minutes after notification that their services are needed at the hospital.
 - B) Direct patient care services may be performed by an anesthesiologist or a CRNA.
- 3) Laboratory -- 24 hours a day in-house, providing the following:
- A) Standard analysis of blood, urine, and other body fluids;
 - B) Blood typing and cross-matching;
 - C) Coagulation studies;
 - D) Comprehensive blood bank or access to a community central blood bank and adequate hospital storage facilities (see Hospital Licensing Requirements, 77 Ill. Adm. Code 250, specifically Section 250.520);
 - E) Blood gases and pH determinations;
 - F) Microbiology, to include the ability to initiate aerobic and

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 4) Radiology staffed by:
 - A) A technician with the ability to perform a CAT scan available within 30 minutes; and
 - B) A radiologist with the ability to read CAT scans and perform angiography association available within 60 minutes. This requirement may be met by a PGY II radiology resident or PGY I resident with six months experience in CAT and angiography association. The radiology department shall provide a quality monitoring process to validate the resident's compliance with the time requirements and competency to read CAT scans and perform angiography association. Teleradiographic equipment may be used to transmit CAT scans off site in lieu of the radiologist's response to the trauma center to read CAT scans.
- 5) Cardiology -- 60 minutes.
- 6) Internal Medicine -- 60 minutes.
- 7) Postanesthetic recovery capability staffed and available within 30 minutes.
- 8) Intensive Care Medicine Unit having available the following:
 - A) A physician credentialed by the hospital and available within 30 minutes. This requirement may be fulfilled by second and third year residents who have had intensive care training and are under the supervision of a staff physician possessing full intensive care privileges;
 - B) Registered Professional Nurses 24 hours a day in the Intensive Care Unit; and
 - C) The following equipment 24 hours a day in-house:
 - i) Airway control and ventilation devices;
 - ii) Oxygen source with concentration controls;
 - iii) Cardiac emergency cart;
 - iv) Electrocardiograph-oscilloscope-defibrillator;
 - v) Temperature control devices;
 - vi) Drugs, intravenous fluids, and supplies in accordance with the Hospital Licensing Requirements, 77 Ill. Adm. Code 250, specifically Sections 250.1050, 250.2140, and 250.2710; and
 - vii) Mechanical ventilator-respirators.
- 9) Pediatrics -- 60 minutes.
- 10) Acute hemodialysis capability 24 hours a day or a transfer agreement.
- g) The trauma center shall meet the following professional staff requirements:
 - 1) The ED Director shall be a physician board certified by the ABEM, or a physician who has completed 12 months of internship, followed by 60 months plus 7000 hours of hospital-based Emergency Medicine (2800 of the 7000 hours must be completed within one

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

24-month period), and 50 hours of continuing medical education in Emergency Medicine for each complete year of practice, or a physician who has completed a residency program approved by the Residency Review Committee for Emergency Medicine or by the AOA;

2) Each shift in the ED will be staffed by at least one Registered Nurse who has completed a Trauma Nurse Specialist Course as specified in Section 515.750 of this Part. A back-up policy shall provide for a nurse with experience evidenced by TNCC or 16 hours equivalent in trauma nursing education, approved by the Department, in a four-year period. A back-up schedule must be maintained;

3) A Trauma Coordinator dedicated to the Trauma program; and

4) An operating room shall be staffed and available within 30 minutes 24 hours a day.

h) The trauma center shall provide and maintain the following equipment:

- 1) Airway control and ventilation equipment including laryngoscopes and endotracheal tubes of appropriate sizes, bag-mask, resuscitator, sources of oxygen, and mechanical ventilator;
- 2) Suction device;
- 3) Electrocardiograph-oscilloscope-defibrillator;
- 4) Apparatus to establish central venous pressure monitoring;
- 5) All standard intravenous fluids and administration devices;
- 6) Sterile surgical sets of procedures standard for ED, such as cricothyrotomy, tracheostomy, thoracotomy, and cut down;
- 7) Gastric lavage equipment;
- 8) Drugs and supplies necessary for emergency care;
- 9) X-ray and CAT scan capability, available within 30 minutes;
- 10) Spinal immobilization equipment;
- 11) Temporary pacemaker; and
- 12) Specialized pediatric resuscitation cart in the emergency area.

i) The trauma center must have helicopter landing capabilities approved by State and federal authorities. (Section 3.100(j) of the Act) The helicopter landing capabilities shall:

- 1) Comply with the Aviation Safety Rules of the Illinois Department of Transportation (92 Ill. Adm. Code 14, specifically Sections 14.790, 14.792 and 14.795);
 - 2) Be covered by a favorable airspace determination letter issued by the Federal Aeronautics Administration pursuant to Sections 307 and 309 of the Federal Aviation Act of 1958, and 14 CFR 157 and 14 CFR 77, Subpart D; and
 - 3) Be provided on the campus of the trauma center.
- Out-of-state trauma centers are exempted from this subsection (i) but must comply with their state's rules that govern aviation safety.
- j) The trauma center shall perform focused outcome analyses of its trauma services on a quarterly basis and shall provide all minutes related to these reviews on site or at the request of the Department. The analyses shall consist of at least:

- 1) Review of all patient deaths, excluding dead on arrival (DOA).

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Patients must be assigned a status of non-preventable death, potentially preventable death, or preventable death using the American College of Surgeons "Guidelines for Judgment Regarding Mortality" (from "Resources for the Optimal Care of the Injured Patient"). Factors contributing to the death must be included in the review according to the American College of Surgeons "Contributing Factors and Guidelines for Assigning Contributing Factors Related to Morbidity/Mortality" (from "Resources for the Optimal Care of the Injured Patient"). A cumulative report of these findings shall be available on site and upon request by the Department.

- 2) Review of all morbidities. A morbidity is a negative outcome that is the result of the original trauma and/or treatment rendered or omitted. Factors contributing to the morbidity must be included in the review according to the American College of Surgeons "Contributing Factors and Guidelines for Assigning Contributing Factors Related to Morbidity/Mortality." A cumulative report of these findings must be presented quarterly to the Region.

- 3) Review of audit filters. An audit filter is a clinical and/or internal resource indicator used to examine the process of care and to identify potential patient care and/or internal resource problems.

- 4) All information contained in or relating to any medical audit performed of a trauma center's trauma services pursuant to the Act, or by an EMSMD or his designee of medical care rendered by system personnel, shall be afforded the same status as is provided information concerning medical studies in Article VIII, Part 21 of the Code of Civil Procedure. (Section 3.110(a) of the Act)

- k) Every two years the trauma center shall provide written protocols concerning the following:

- 1) The treatment of trauma patients in the trauma center, which includes Trauma Category I and Trauma Category II criteria as required in Section 515. Appendices C and F of this Part;
 - 2) The transfer of trauma patients to the Level I Trauma Center serving the EMS Region or a more specialized level of care;
 - 3) A policy that blood alcohol will be drawn on a motor vehicle crash victim who is believed to have been the driver of the vehicle.
- l) Changes to the Trauma Center Plan must be approved by the Department prior to implementation.
- m) The practices of the trauma center shall reflect the protocols and policies of the EMS Region and Trauma Center Plan.
- n) The resuscitation care of a Trauma Category I or Trauma Category II patient must be documented on a Trauma Flow Sheet, which at minimum contains trauma category classification; time and place of classification (field or in-house); time of arrival of patient to

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

trauma center; notification of surgical specialties and time of arrival to see patient (may exclude isolated injuries for Category II patients).

o) The trauma center shall maintain a job description for the Trauma Center Medical Director, which details his/her responsibility and authority for the coordination and management of trauma services.

p) The trauma center shall maintain a job description for the Trauma Coordinator, which details the responsibility and authority for the coordination and management of trauma services.

q) The trauma center shall develop a policy that identifies situations that would result in trauma bypass. This policy shall include notification of procedures for pre-hospital personnel and surrounding trauma centers.

1) Such diversion must be reported to the Department by telephone if it occurs during business hours. Otherwise, written notification of diversion must be sent no more than 48 hours following the diversion.

2) Both forms of notification shall include at minimum:

A) The name of the trauma center;

B) Date and time of resource limitation; and

C) The reason for resource limitation.

r) The trauma center shall develop a plan for implementing a program of public information and education concerning trauma care for adult and pediatric patients.

(Source: Amended at 22 Ill. Reg. 11835, effective JUN 25 1998)

Section 515.2050 Trauma Center Uniform Reporting Requirements

a) Each trauma center shall have available to the Trauma Service use of an IBM compatible personal computer capable of handling the software contracted by the Department and that meets the following general standards: 486 microprocessor, 32 megabytes Random Access Memory (RAM), adequate hard drive space to accommodate the trauma center's data files and needs, at least 14.4kbs modem, color monitor, printer and back-up capability. The Department shall provide Trauma Registry software for use by the trauma center. This software shall be used for data collection and shall have a provision to prepare electronic media reports to the Department on a quarterly basis.

AGENCY NOTE: For example, Windows 95 would meet these requirements.

b) The trauma center shall provide the following information on each reportable trauma patient:

1) Registry Number;

2) Medical Record Number;

3) Name (first and last);

4) Address, City, State, County city7-state7-county and Zip Code zip;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

5) EMS Region;

6) Age;

7) Sex;

8) Race;

9) Injury-~~Type~~;

9) Mechanism of Injury (International Classification of Disease (ICD) 9 E codes - 4 digits);

10) Safety Equipment;

11) Hospital Transfer From and Hospital Transfer To;

12) Vehicle Number for all Transporting Agencies; ~~Transport-Mode~~;

13) Run Sheet;

14) Date Arrived At Scene (only for when pre-hospital transport is involved);

15) ED Arrival Date;

16) ED Disposition Date;

17) Glasgow Coma Scale Components (Eye, Motor, Verbal and Total) in ED;

18) First Temperature in ED;

19) ED Blood Pressure, Pulse, Respiratory Rate;

20) ED Revised Trauma Score;

21) ED Triage Category;

22) Minimum Field Triage Criteria;

23) ED Treatment;

24) Blood Alcohol level in all drivers in motor vehicle crashes;

25) Blood Units Administered;

26) Physician Type, Notification Time, Arrival Time;

27) Admitting Service;

28) Medical Complications;

29) Total ICU Days, Monitored Bed Days and Unmonitored Bed Days;

30) Number of Ventilator Days;

31) Surgery Performed, Surgery Date;

32) Additional Surgeries;

33) Abbreviated Injury Scale for each injury;

34) Injury Severity Score (ISS) range 1-75;

35) Primary Pay Source;

36) Discharge Condition and Date; and

37) Total Hospital Days;

38) Crash Record Number;

39) Pre-Hospital Record Number;

40) Injury Date and Time;

41) System Access;

42) Scene FIPS Code;

43) Work Related;

44) Date Arrived at Transferring Hospital;

45) Time Arrived at Transferring Hospital;

46) Glasgow Coma Scale at Transferring Hospital;

47) Systolic Blood Pressure at Transfer In Hospital;

48) Respiratory Rate at Transfer In Hospital;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 49) Care at Transfer In Hospital;
 50) Date Out of Transfer Hospital;
 51) Time Out of Transfer Hospital;
 52) Pre-Hospital Response Minutes;
 53) Pre-Hospital Scene Minutes;
 54) Pre-Hospital Transportation Minutes;
 55) Pre-Hospital Glasgow Total;
 56) Pre-Hospital Systolic Blood Pressure;
 57) Pre-Hospital Respiratory Rate;
 58) Emergency Department Arrival Time;
 59) Drug Screen;
 60) Emergency Department Glasgow Coma Scale Total;
 61) Minutes Prior to CT Scan;
 62) Admit to Physician Number;
 63) Time of First Operation;
 64) ICD-9-CM Procedure Codes;
 65) Unanticipated Operation;
 66) Return to Operating Room;
 67) ICD-9-Nature of Injury Codes 800-959;
 68) Scene City, Address, Zip Code;
 69) Vehicle Position of Driver;
 70) Pre-Hospital Patient Contact Time;
 71) Emergency Department Triage Time;
 72) Emergency Department Reason for Transfer;
 73) Emergency Department Disposition Deaths;
 74) Medical Complications;
 75) Hospital Discharge Disposition;
 76) Expression;
 77) Feeding;
 78) Locomotion; and
 79) Total Hospital Charges.

c) Reportable trauma patients

- 1) A reportable trauma patient is one who was involved in a traumatic event and:
- A) was transferred to the trauma center from another hospital;
 - B) was transferred from the trauma center to another hospital;
 - C) was admitted to the trauma center as an inpatient;
 - D) was assigned an observation status and had a length of stay greater than 12 hours from time of arrival in the ED;
 - E) was dead on arrival (DOA);
 - F) died in the emergency department (DIE); or
 - G) signed out against medical advice after refusing admission (AMA).
- 2) A traumatic event is one in which there was a transfer of energy resulting in injury, involving any of the following:
- A) aircraft;
 - B) watercraft;
 - C) motor vehicles;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- D) railway;
 E) recreational vehicles;
 F) farm machinery;
 G) animals, including bites;
 H) explosion;
 I) falls;
 J) thermal (including smoke inhalation)/chemical/radiation injuries;
 K) lightning;
 L) weather related (tornado, flood, blizzard) injuries;
 M) struck by falling object;
 N) sports related;
 O) caught between objects;
 P) cutting or piercing instruments or objects;
 Q) firearms;
 R) electric current;
 S) suicide or self-inflicted injury;
 T) homicide;
 U) injury inflicted by others;
 V) hanging; or
 W) strangulation.
- d) Illinois trauma registry reporting schedule
- | | |
|---------------------|--------------|
| Patients Discharged | Report Date |
| January - March | June 30 |
| April - June | September 30 |
| July - September | December 31 |
| October - December | March 31 |

- e) Data shall be collected for all trauma patients in the State for each level of Injury Severity Score mean mortality rates, and standard deviations shall be calculated using standard statistical methods. Trauma centers with mortality rates more than one standard deviation above the mean in three or more ISS levels shall have an in-depth evaluation by the Department prior to renewal of designation. Trauma centers with mortality rates more than two standard deviations above the mean in any ISS level less than 25 shall also be evaluated for compliance with the Act and this Part prior to renewal of designation. The Department shall review a trauma center whose annual morbidity falls two standard deviations above the mean.
- f) Data collected from individual trauma centers shall be cross-referenced with Vital Records Death Certificates to confirm accuracy.
- g) Annual reports shall be prepared by the Department presenting summary data to allow trauma centers to evaluate performance. This data shall have all hospital and patient identifiers removed.
- h) All data received by the Department shall be kept confidential. Patient identifiers shall be kept in such a way to assure that

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

confidentiality is maintained and is not available to the public.

- 1) All reports and records made pursuant to the Head and Spinal Cord Injury Act [410 ILCS 515] and maintained by the Department and other appropriate persons, officials and institutions pursuant to the Head and Spinal Cord Injury Act shall be confidential. Information shall not be made available to any individual or institution except to:

- A) Appropriate staff of the Department;
- B) Any person engaged in a bona fide research project, with the permission of the Director of Public Health, except that no information identifying the subjects of the reports or the reporters shall be made available to researchers unless the Department requests and receives consent for such release pursuant to the provisions of this Section; and
- C) The Advisory Council on Spinal Cord and Head Injuries, except that no information identifying the subjects of the reports or the reporters shall be made available to the Council unless consent for release is requested and received pursuant to the provisions of this Section. Only information pertaining to head and spinal cord injuries as defined in Section 1 of the Head and Spinal Cord Injury Act shall be released to the Council. (Section 3 of the Head and Spinal Cord Injury Act)

- 2) The Department shall not reveal the identity of a patient, physician or hospital, except that the identity of the patient may be released upon written consent of the patient, parent or guardian, the identity of the physician may be released upon written consent of the physician, and the identity of the hospital may be released upon written consent of the hospital. (Section 3 of the Head and Spinal Cord Injury Act)

- 3) The Department shall request consent for release from a patient, a physician or hospital only upon a showing by the applicant for such release that obtaining the identities of certain patients, physicians or hospitals is necessary for his bona fide research directly related to the objectives of the Head and Spinal Cord Injury Act. (Section 3 of the Head and Spinal Cord Injury Act)

- i) Availability of Registry Information

- 1) All requests by medical or epidemiologic researchers for confidential registry data must be submitted in writing to the registry. The request must include a study protocol that contains: objectives of the research; rationale for the research, including scientific literature justifying current proposal; overall study methods, including copies of forms, questionnaires, and consent forms used to contact facilities, physicians or study subjects, including methods for documenting compliance with 42 CFR 2A, pars. 4 ambulance, 6 a-b, 7 a-b; methods for the processing of data; storage and security measures taken to ensure confidentiality of patient identifying

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

information; time frame of the study; a description of the funding source of the study (e.g., federal contract); the curriculum vitae of the principal investigator; and a list of collaborators. In addition, the research request must specify what patient or facility identifying information is needed and how the information will be used.

- 2) All requests to conduct research and modifications to approved research proposals involving the use of data that includes patient or facility identifying information shall be subject to a review to determine compliance with the following conditions:

- A) The request for patient or facility identifying information contains stated goals or objectives;
- B) The request documents the feasibility of the study design in achieving the stated goals and objectives;
- C) The request documents the need for the requested data to achieve the stated goals and objectives;
- D) The requested data can be provided within the time frame set forth in the request;
- E) The request documents that the researcher has qualifications relevant to the type of research being conducted;
- F) The research will not duplicate other research already underway using the same registry data when both require the contact of a patient, reporting facility or physician about an individual patient involved in the previously approved concurrent research; and
- G) Other such conditions relevant to the need for the patient or facility identifying information and the patient's confidentiality rights, because the Department will only release the name of the patient, physician (in accordance with the provisions of this Section) or facility identifying information that is necessary for the research.

- 3) Research Agreements

- A) The Department will enter into research contracts for all approved research requests. These contracts shall specify exactly what information is being released and how it can be used in accordance with the standards in subsection (c) of this Section. In addition, the researcher shall include an assurance that:

- i) Use of data is restricted to the specifications of the protocol;
- ii) Any and all data that may lead to the identity of any patient, research subject, physician, other person, or hospital is strictly privileged and confidential and that such data will be kept strictly confidential at all times;
- iii) All officers, agents and employees will keep all such data strictly confidential; will communicate the requirements of this subsection to all officers,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

agents, and employees; will discipline all persons who may violate the requirements of this Section; and will notify the Department in writing within 48 hours after any violation of this subsection, including full details of the violation and corrective actions to be taken;

- iv) All data provided by the Department pursuant to the contract may only be used for the purposes named in the contract and that any other or additional use of the data may result in immediate termination of the contract by the Department; and
 - v) All data provided by the Department pursuant to the contract is the sole property of the Department and may not be copied or reproduced in any form or manner and that all data and all copies and reproduction of the data will be returned to the Department upon termination of the contract.
- B) Any departures from the approved protocol must be submitted in writing and approved by the Director in accordance with subsection (c)(2) of this Section prior to initiation. No patient or facility identifying information may be released by a researcher to a third party.
- 4) The Department shall disclose individual patient or facility information to the reporting facility that originally supplied that information to the Department, upon written request of the facility.
- j) The patient identifying information submitted to the Department by those entities required to submit information under the Act and this Part is to be used in the course of medical study under Part 21 of Article 8 of the Code of Civil Procedure [735 ILCS 5]. Therefore, this information is privileged from disclosure by Part 21 of Article 8 of the Code of Civil Procedure.
- k) The identity of any facility, or any group of facts that tends to lead to the identity of any person whose condition or treatment is submitted to the Department, shall not be open to public inspection or dissemination. Such information shall not be available for disclosure, inspection or copying under the Freedom of Information Act or the State Records Act. All information for specific research purposes may be released in accordance with procedures established by the Department in this Section.
- l) Every hospital shall provide representatives of the Department with access to information from all medical, pathological, and other pertinent records and logs related to reportable registry information. The mode of access and the time during which this access will be provided shall be by mutual agreement between the hospital and the Department. The Department shall not require hospitals to provide information on cases that are dated more than two years before the Department's request for further information.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- m) Every hospital shall provide access to information regarding specified patients or other patients specified for research studies, related to reportable registry information, conducted by the Department. Any disputes as to access shall be resolved by the hospital and the Department within 30 days after requests for access have been denied.

(Source: Amended at 22 Ill. Reg. 11335, effective JUN 25 1998)

Section 515.2060 Trauma Patient Evaluation and Transfer

- a) Patients who are determined in the pre-hospital setting to have sustained hypotension or are victims of cavity penetration of the neck or torso or any other trauma patient as deemed by medical control shall be classified as trauma patients in the field. The trauma surgeon response time begins at the time of field classification. The patient shall be immediately evaluated upon arrival at the ED.
- b) Patients who are not classified in the field must be evaluated within 10 minutes after arrival at the trauma center. This evaluation shall be conducted by the attending ED physician or designee. "Designee", for the purposes of this Section, may refer to ED staff including, but not limited to, a surgeon acting as the ED attending, resident physician, Physician Assistant, or Registered Nurse. By the time the 10 minute evaluation period has elapsed, the patient must be determined to be a Category I trauma patient (Section 515.2030(c) and F of this Part) or Category II (Section 515.2030(c) or not to have met either Category I or II criteria. A patient cannot be downgraded once a category has been assigned. Upgrade to a Category I or II may occur at any time the patient's condition warrants. The trauma or specialty surgical response time begins at the time of upgrade.
- c) EMS Regions or trauma centers may develop triage criteria that expand Category I and II criteria but may not delete any of the minimal criteria in Section 515.2030(c) of this Part.
- d) The response period for trauma or specialty surgery for Category I or II patients is as specified in Section 515.2030(c), Section 515.2040(c) and Section 515.2040(f) of this Part.
- e) Trauma patients being transferred to a Level I or Level II facility or to more specialized care should be enroute within two hours after arrival when stabilized within the capabilities of the referring institution.
- f) The Revised Trauma Score, as specified by the American College of Surgeons, Trauma-Society, shall be used in all trauma centers. The Revised Trauma Score is determined by using the following criteria:

1) Respiratory Rate	Value	Points
	Greater-than-29/Min	4
	10-29/Min	

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

	>29/Min	3
	6-9/Min	2
	1-5/Min	1
	0	0
2) Systolic Blood Pressure	greater than 89mmHg	4
	76-89mmHg	3
	50-75mmHg	2
	1-49mmHg	1
	no pulse	0

3) Glasgow Coma Scale

A) Eye Opening Response	Points
Spontaneous	4
To Voice	3
To Pain	2
None	1
B) Best Verbal Response	
Oriented	5
Confused	4
Inappropriate Words	3
Incomprehensible Sounds	2
None	1
C) Best Motor Response	
Obeys Commands	6
Localizes (Pain)	5
Withdraw (Pain)	4
Flexion (Pain)	3
Extension (Pain)	2
None	1

Total GCS

13-15
9-12
6-8
4-5
≤4

Revised Trauma

Points
= 4
= 3
= 2
= 1
= 0

4) Revised Trauma Score = Total Points 1 + 2 + 3

9) Each EMS Region may include other criteria in addition to the Revised Trauma Score in defining a trauma patient and specifying where trauma patients should be transported according to the severity of the injury.

h) The components of Section 515. Appendix D of this Part shall be

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

included in the trauma center policy.
(Source: Amended at 22 Ill. Reg. 11335, effective 11335)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT(S)

Section 515. APPENDIX C Minimum Trauma Field Triage Criteria

Minimum Trauma Field Triage Criteria*

- SUSTAINED HYPOTENSION - BP < 90 SYSTOLIC (Peds < 80 SYSTOLIC) ON TWO CONSECUTIVE MEASUREMENTS FIVE MINUTES APART
- CAVITY PENETRATION OF TORSO OR NECK

NO

- Category I
Blunt or Penetrating Trauma With Unstable Vital Signs And/Or
- Hemodynamic Compromise As Evidenced By
 - BP < 90 systolic
 - (Peds - BP < 80 systolic)
 - Respiratory Compromise as Evidenced By
 - Respiratory rate < 10 or > 29
 - Altered Mentation as Evidenced By:
 - Glasgow Coma Scale < 10

Anatomical Injury

- Penetrating injury of head, neck, torso, groin
- Two or more body regions with potential life or limb threat
- Combination trauma with ≥ 20% TBSA Burn
- Amputation above wrist or ankle
- Limb paralysis and/or sensory deficit above the wrist and ankle
- Flail chest
- Two or more proximal long bone fractures

NO

- Category II
Mechanism of Injury
- Ejection from motor vehicle
 - Death in same passenger compartment
 - Falls > 20 feet
 - (Peds - falls ≥ three time body length of child)
 - Pregnancy ≥ 24 weeks

NO

MANDATORY NOTIFICATION
OF THE TRAUMA SURGEON FROM THE FIELD

YES

- Initiate Field Trauma Treatment Protocols
- Rapid Transport To Trauma Center (1)

YES

- Initiate Field Trauma Treatment Protocols And Transport to Closest Hospital

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- (1) > 25 minutes from Trauma Center, transport to nearest affiliate trauma hospital.
- > 30 minutes from Trauma Center or affiliate trauma hospital, transport to nearest hospital.
- > 45 minutes from Trauma Center or affiliate trauma hospital in a rural area where there is no comprehensive emergency department hospital available, transport to the nearest hospital.
- * Adapted from Trauma Care System Guidelines, ACEP, 1992, and Resources for Optimal Care of the Injured Patient, ACS, 1993. It is expected that each Region will expand upon this minimal triage set based on individual assessments, resources, and outcomes.

(Source: Amended at 22 Ill. Reg. 11831, effective
JUN 25 1993)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section 515. APPENDIX F Template for In-House Triage for Trauma Centers

It is expected that each trauma center will expand upon the minimum triage set based on individual assessments, resources and outcomes. The criteria are consistent with the Minimum Trauma Field Triage Criteria for transport to a trauma center.

a) Patient Evaluation

- 1) Any EMS System transported patients who are classified under Category I in the Minimum Trauma Field Triage Criteria require rapid transport to a trauma center if less than 25 minutes from the trauma center; otherwise, follow Section 515. Appendix C. Mandatory field notification of a trauma surgeon will occur in cases of:

- A) Sustained hypotension (blood pressure less than or equal to 90 Hg systolic for an adult and less than or equal to 80 Hg for a pediatric patient on two consecutive measures five minutes apart); or

- B) Cavity penetration of the torso or neck.

- 2) Patients who are classified in the field or in any pre-hospital setting shall be evaluated by the ED's attending emergency physician or designee immediately upon arrival. (Section 515.2060(a))

- 3) Patients who are not classified as trauma prior to arrival shall be evaluated to assess whether they should be classified as a trauma patient within 10 minutes after arrival. (Section 515.2060(b))

- 4) Within the above 10 minute evaluation period, the patient must be determined to be Category I or Category II. The response periods for both categories are described below.

- 5) Patients may be upgraded at any time during ED treatment. The surgeon response time requirements begin at the time of upgrade.

- 6) Once the patient has been assigned a Category I or II status that patient cannot be downgraded until the patient is evaluated by the trauma surgeon or appropriate subspecialist.

b) Category I

The trauma center must activate its trauma team response (which includes a trauma surgeon, resident or other surgical specialty in

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

lieu of the trauma surgeon) for patients who meet these criteria. Level II trauma centers require a 30-minute response from the time of identification of need. If a back-up surgeon is used, the 30-minute time for response is based on the trauma patient identification time, not the time of the contact to the back-up surgeon. Any patient can be made a Category I based on the ED physician's discretion.

Any patient meeting the definition of isolated injury requires consultation with the appropriate subspecialist within 60 minutes after trauma patient identification, except for neurosurgery and Level I OB/GYN, pediatric surgery and cardiovascular surgery. When neurosurgical intervention has been identified, the neurosurgeon must arrive and be available in a fully staffed operating room within 60 minutes after the identification of the need for operative intervention. In a Level I trauma center, the OB/GYN, pediatric surgery or cardiovascular surgical subspecialist must arrive within 30 minutes after notification of the subspecialist that his or her services are needed at the hospital. Where specialty services are provided by transfer agreement, a transfer to a specialty center shall commence within 30 minutes after the patient's arrival, and shall be completed within two hours. An isolated injury refers to transfer of energy to a single anatomic body region with no potential for multisystem involvement.

c) Category II

Any other patient who is admitted for traumatic injury requires notification/consultation with the trauma surgeon or subspecialist at the time the decision to admit is made. The patient will be seen by the trauma surgeon or appropriate surgical subspecialist within 12 hours after emergency department arrival.

Any patient meeting the definition for isolated injury requires a telephone consultation with the appropriate subspecialist (within 60 minutes Level II and 30 minutes Level I) of identified need by the emergency department physician except for neurosurgical injury--which requires--an on-site consultation within 60 minutes after notification of the neurosurgeon that his or her services are needed--at the hospital--in a Level I trauma center--the surgical subspecialist for OB/GYN--pediatric--and--cardiovascular--thoracic--surgery--must--arrive within 30 minutes after notification--that his or her services are needed--at the hospital. When the need for neurosurgical intervention has been identified, the neurosurgeon must be available in a fully staffed operating room within 60 minutes after the identification of need for operative intervention. Where specialty services are provided by transfer agreement, a transfer to a specialty center shall commence within 30 minutes after the patient's arrival, and the transfer shall be completed within two hours. An isolated injury

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

refers to the transfer of energy to a single anatomic body region with no potential for multisystem involvement.

Category I criteria include at minimum but are not limited to items in the Category I box, Minimum Trauma Field Triage Criteria (Section 515.Appendix C).

Category II criteria include at minimum but are not limited to items in the Category II box, Minimum Field Triage Criteria (Section 515.Appendix C).

(Source: Amended at 22 Ill. Reg. 6-35, effective JUN 25 1998)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 130

3) Section Numbers: Adopted Action:
130.2070 Amendment

4) Statutory Authority: 35 ILCS 120

5) Effective Date of Rulemaking: June 29, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: June 29, 1998

9) Notice of Proposal Published in Illinois Register:
February 13, 1998, 22 Ill. Reg. 3403

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? Yes

Section Numbers	Adopted Action	Illinois Register Citation
130.1945	Amendment	1/23/98, 22 Ill. Reg. 2070

15) Summary and Purpose of Rulemaking: This rulemaking implements the provisions of Public Act 90-289, effective August 1, 1997. The regulations provide that sales of nonreusable tangible personal property t food and beverage vendors, including persons engaged in the business of operating restaurants, drive-ins and cafeterias, are sales for resale provide that such property is transferred to customers in the ordinary course of business as part of the sale of food or beverages and is used to deliver, package or consume food or beverages, regardless of where consumption of the food or beverage occurs. The regulation provides examples of tangible personal property which fall within this exemption.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 16) Information and questions regarding this adopted amendment shall be directed to:

Jerilynn Gordon
Senior Counsel, Sales and Excise Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217) 782-6996

The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 130

RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section	Character and Rate of Tax
130.101	Responsibility of Trustees, Receivers, Executors or Administrators
130.105	Occasional Sales
130.110	Sale of Used Motor Vehicles by Leasing or Rental Business
130.111	Habitual Sales
130.115	Nontaxable Transactions
130.120	

SUBPART B: SALE AT RETAIL

Section	The Test of a Sale at Retail
130.201	Sales for Transfer Incident to Service
130.205	Sales of Tangible Personal Property to Purchasers for Resale
130.210	Further Illustrations
130.215	Sales to Lessors of Tangible Personal Property
130.220	

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section	
130.305	Farm Machinery and Equipment
130.310	Food, Drugs, Medicines and Medical Appliances
130.315	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320	Gasohol
130.321	Fuel Used by Air Common Carriers in International Flights
130.325	Graphic Arts Machinery and Equipment Exemption
130.330	Manufacturing Machinery and Equipment
130.331	Manufacturer's Purchase Credit
130.335	Pollution Control Facilities
130.340	Rolling Stock
130.345	Oil Field Exploration, Drilling and Production Equipment
130.350	Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

SUBPART D: GROSS RECEIPTS

Section	Meaning of Gross Receipts
130.401	How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.405	

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

130.410 Cost of Doing Business Not Deductible
130.415 Transportation and Delivery Charges
130.420 Finance or Interest Charges--Penalties--Discounts
130.425 Traded-In Property
130.430 Deposit or Prepayment on Purchase Price
130.435 State and Local Taxes Other Than Retailers' Occupation Tax
130.440 Penalties
130.445 Federal Taxes
130.450 Installation, Alteration and Special Service Charges
130.455 Motor Vehicle Leasing and Trade-In Allowances

SUBPART E: RETURNS

Section
130.501 Monthly Tax Returns--When Due--Contents
130.502 Quarterly Tax Returns
130.505 Returns and How to Prepare
130.510 Annual Tax Returns
130.515 First Return
130.520 Final Returns When Business is Discontinued
130.525 Who May Sign Returns
130.530 Returns Covering More Than One Location Under Same Registration--Separate Returns for Separately Registered Locations
130.535 Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
130.540 Returns on a Transaction by Transaction Basis
130.545 Registrants Must File a Return for Every Return Period
130.550 Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551 Prepayment of Retailers' Occupation Tax on Motor Fuel
130.555 Vending Machine Information Returns
130.560 Verification of Returns

SUBPART F: INTERSTATE COMMERCE

Section
130.601 Preliminary Comments
130.605 Sales of Property Originating in Illinois
130.610 Sales of Property Originating in Other States

SUBPART G: CERTIFICATE OF REGISTRATION

Section
130.701 General Information on Obtaining a Certificate of Registration
130.705 Procedure in Disputed Cases Involving Financial Responsibility Requirements
130.710 Procedure When Security Must be Forfeited
130.715 Sub-Certificates of Registration

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

130.720 Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances
130.725 Display
130.730 Replacement of Certificate
130.735 Certificate Not Transferable
130.740 Certificate Required For Mobile Vending Units
130.745 Revocation of Certificate

SUBPART H: BOOKS AND RECORDS

Section
130.801 General Requirements
130.805 What Records Constitute Minimum Requirement
130.810 Records Required to Support Deductions
130.815 Preservation and Retention of Records
130.820 Preservation of Books During Pendency of Assessment Proceedings
130.825 Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

SUBPART I: PENALTIES AND INTEREST

Section
130.901 Civil Penalties
130.905 Interest
130.910 Criminal Penalties

SUBPART J: BINDING OPINIONS

Section
130.1001 When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Section
130.1101 Definition of Federal Area
130.1105 When Deliveries on Federal Areas Are Taxable
130.1110 No Distinction Between Deliveries on Federal Areas and Deliveries Outside Federal Areas

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section
130.1201 General Information
130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

DEPARTMENT OF REVENUE

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

130.1301 When Lessee of Premises Must File Return for Leased Department
 130.1305 When Lessor of Premises Should File Return for Leased Department
 130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART N: SALES FOR RESALE

Section
 130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale
 130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale
 130.1410 Requirements for Certificates of Resale (Repealed)
 130.1415 Resale Number--When Required and How Obtained
 130.1420 Blanket Certificate of Resale (Repealed)

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section
 130.1501 Claims for Credit--Limitations--Procedure
 130.1505 Disposition of Credit Memoranda by Holders Thereof
 130.1510 Refunds
 130.1515 Interest

SUBPART P: PROCEDURE TO BE FOLLOWED UPON
SELLING OUT OR DISCONTINUING BUSINESS

Section
 130.1601 When Returns are Required After a Business is Discontinued
 130.1605 When Returns Are Not Required After Discontinuation of a Business
 130.1610 Cross Reference to Bulk Sales Regulation

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section
 130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

Section
 130.1801 When Powers of Attorney May be Given
 130.1805 Filing of Power of Attorney With Department
 130.1810 Filing of Papers by Agent Under Power of Attorney

SUBPART S: SPECIFIC APPLICATIONS

Section
 130.1901 Addition Agents to Plating Baths
 130.1905 Agricultural Producers

130.1910 Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
 130.1915 Auctioneers and Agents
 130.1920 Barbers and Beauty Shop Operators
 130.1925 Blacksmiths
 130.1930 Chiropodists, Osteopaths and Chiropractors
 130.1935 Computer Software
 130.1940 Construction Contractors and Real Estate Developers
 130.1945 Co-operative Associations
 130.1950 Dentists
 130.1951 Enterprise Zones
 130.1952 Sales of Building Materials to a High Impact Business
 130.1955 Farm Chemicals
 130.1960 Finance Companies and Other Lending Agencies - Installment Contracts - Repossessions
 130.1965 Florists and Nurserymen
 130.1970 Hatcheries
 130.1975 Operators of Games of Chance and Their Suppliers
 130.1980 Optometrists and Opticians
 130.1985 Pawnbrokers
 130.1990 Peddlers, Hawkers and Itinerant Vendors
 130.1995 Personalizing Tangible Personal Property
 130.2000 Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
 130.2005 Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons
 130.2006 Sales by Teacher-Sponsored Student Organizations
 130.2007 Exemption Identification Numbers
 130.2008 Sales by Nonprofit Service Enterprises
 130.2010 Persons Who Rent or Lease the Use of Tangible Personal Property to Others
 130.2011 Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals
 130.2012 Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies
 130.2015 Persons Who Repair or Otherwise Service Tangible Personal Property
 130.2020 Physicians and Surgeons
 130.2025 Picture-Framers
 130.2030 Public Amusement Places
 130.2035 Registered Pharmacists and Druggists
 130.2040 Retailers of Clothing
 130.2045 Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like
 130.2050 Sales and Gifts By Employers to Employees
 130.2055 Sales by Governmental Bodies
 130.2060 Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
 130.2065 Sales of Automobiles for Use in Demonstration
 130.2070 Sales of Containers, Wrapping and Packing Materials and Related

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Products

- 130.2075 Sales To Construction Contractors, Real Estate Developers and Speculative Builders
- 130.2080 Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
- 130.2085 Sales to or by Banks, Savings and Loan Associations and Credit Unions
- 130.2090 Sales to Railroad Companies
- 130.2095 Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
- 130.2100 Sellers of Feeds and Breeding Livestock
- 130.2105 Sellers of Newspapers, Magazines, Books, Sheet Music and Phonograph Records and Their Suppliers
- 130.2110 Sellers of Seeds and Fertilizer
- 130.2115 Sellers of Machinery, Tools and the Like
- 130.2120 Suppliers of Persons Engaged in Service Occupations and Professions
- 130.2125 Trading Stamps and Discount Coupons
- 130.2130 Undertakers and Funeral Directors
- 130.2135 Vending Machines
- 130.2140 Vendors of Curtains, Slip Covers, Floor Covering and Other Similar Items Made to Order
- 130.2145 Vendors of Meals
- 130.2150 Vendors of Memorial Stones and Monuments
- 130.2155 Vendors of Signs
- 130.2156 Vendors of Steam
- 130.2160 Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
- 130.2165 Veterinarians
- 130.2170 Warehousemen

ILLUSTRATION A: Examples of Tax Exemption Cards

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 39b3 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b3].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062,

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 21 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective ~~January 27, 1998~~ June 9, 1998.

SUBPART S: SPECIFIC APPLICATIONS

Section 130.2070 Sales of Containers, Wrapping and Packing Materials and Related Products

a) Definition

When used in this Section Regulation, the term "containers" includes all containers, wrapping and packing materials, bags, twines, container handles, wrapping papers, gummed tapes, cellophane, boxes, bottles, drums, cartons, sacks or other packing, packaging, containing and wrapping materials in which tangible personal property may be contained.

b) Sales for Resale

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 1) Sellers of containers to purchasers who sell tangible personal property contained in such containers to others are deemed to make sales of such containers to purchasers for purposes of resale, the receipts from which sales are not subject to the Retailers' Occupation Tax, if the purchasers of such containers transfer the ownership of the containers to their customers together with the ownership of the tangible personal property contained in such containers.
- 2) For example, a sale of fruit boxes to a packer who fills the boxes with fruit and sells the fruit in such boxes is a sale of the boxes to the packer for resale by him. There is no difference between a returnable container whose ownership is transferred with a deposit being taken and a nonreturnable container. Although sales of containers to purchasers who retransfer such containers to others as an incident to engaging in a service occupation are not subject to the Retailers' Occupation Tax, such transactions are subject to the Service Occupation Tax (see Subpart A of the Service Occupation Tax, 86 Ill. Adm. Code 140 Regulations).
- 3) Effective August 1, 1997, nonreusable tangible personal property sold to food and beverage vendors, including persons engaged in the business of operating restaurants, cafeterias or drive-ins, is a sale for resale when it is transferred to customers in the ordinary course of business as part of the sale of food or beverages and is used to deliver, package, or consume food or beverages, regardless of where consumption of the food or beverage occurs. Examples of such items include, but are not limited to, paper and plastic cups, plates, baskets, boxes, sleeves, buckets or other containers, utensils, straws, placemats, napkins, doggie bags and wrapping or packaging materials that cannot be reused by the food or beverage vendor and which are transferred to customers as part of the sale of food or beverages. Such items do not include items which are used by the food vendor in conducting his business and which are not transferred to the customer, including, but not limited to, paper products, serving trays, serving dishes, utensils or condiment bottles.
- c) Sales For Use or Consumption
 - 1) Sellers of containers to purchasers who do not transfer the ownership thereof to others, but who intend such containers merely to provide a means of containing tangible personal property while in the process of being delivered to their customers, retaining and reusing or discarding the containers after such delivery is completed, and sellers of containers to purchasers who use such containers as a means of storing tangible personal property, are making sales for use or consumption, and their receipts from such sales are subject to the Retailers' Occupation Tax.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 2) Also, paper towels and toilet tissues are deemed to be sold for use or consumption when sold to a purchaser for use in connection with the conduct of his business and not for resale as such.
- 3) Sales of paper napkins, drinking straws, paper cups and paper plates to operators of office buildings, hotels and the like for the use of their employees, tenants or guests are taxable retail sales.
- 4) Through July 31, 1997, sales of paper napkins, drinking straws, paper cups and paper plates to restaurants (including drive-in restaurants) and other vendors of food or beverages for use on the premises as serving equipment in lieu of more durable kinds of serving equipment (such as linen napkins, metal drinking straws, glass or porcelain cups and plates) are taxable retail sales. Sales of paper napkins, drinking straws, paper cups and paper plates to food or beverage vendors are nontaxable sales for resale if the items are resold for a direct and specific charge, or if the items are employed as containers for food or beverages contained therein and are transferred with the food or beverages to the purchaser thereof either by being delivered by the food or beverage vendor away from his premises to his customers or by being delivered on the premises of the food or beverage vendor to customers who take the packaged food or beverages away from such premises with them for consumption elsewhere (i.e., the so-called "carry-out trade"). In general, it may be assumed that paper sacks, boxes, cartons and paper cups with lids, when sold to a food or beverage vendor, are for resale within the meaning of this paragraph. The same is true of paper cups which are used in serving beverages or other tangible personal property from a vending machine.
- 5) When nonreusable such paper products such as napkins, drinking straws, cups or plates are sold to a food or beverage vendor who uses some of these products on his premises in conducting his business as--serving--equipment, but who resells some of these products as hereinabove provided, and it is impracticable, at the time of the sale to such food or beverage vendor, to determine exactly how much of the purchase is for use and how much is for resale, the purchaser may determine, from his experience, approximately what percentage of his purchases of such paper products is for resale and may give the supplier a blanket Certificate of Resale certifying that that percentage of his purchases of such products in the future will be for resale. If the Department goes behind such a Certificate of Resale to check its accuracy, the Department will not disallow the Certificate of Resale if the percentage stated is reasonably close to what the facts actually are. Such a purchaser should redetermine and recertify such percentage to suppliers of such paper products at least every 12 months. If the purchaser uses some of the paper products which he has certified are for resale so that he does

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

not pay tax to his suppliers on his purchases of such products, the purchaser is liable to pay the Use Tax directly to the Department on his cost price of such paper products.

- 6) When containers are sold to a purchaser for use or consumption, it is not material that the purchaser, after such containers have been used by him until they no longer have utility to him, sells such containers in order to recover as much as he can of the amount which he has invested in such containers.

(Source: Amended at 22 Ill. Reg. _____, effective
JUN 23 1998)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Telecommunications Excise Tax
- 2) Code Citation: 86 Ill. Adm. Code 495
- 3) Section Numbers: Adopted Action:
495.105 Amendment
- 4) Statutory Authority: 35 ILCS 630/17
- 5) Effective Date of Amendment(s): June 29, 1998
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: June 29, 1998
- 9) Notice of Proposal Published in Illinois Register: January 2, 1998, 22 Ill. Reg. 202
- 10) Has JCAR issued a Statement of Objections to these Amendments? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect?
No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment(s): This rulemaking amends the regulation to clarify that the exemption afforded to "State governments" under Section 2 of the Telecommunications Excise Tax Act extends only to agencies of the State and other state governments.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Jerilynn T. Gorden
Senior Counsel, Sales & Excise Taxes
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

DEPARTMENT OF REVENUE
NOTICE OF ADOPTED AMENDMENTS

(217) 782-6996

The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF REVENUE
NOTICE OF ADOPTED AMENDMENTS
TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE
PART 495
TELECOMMUNICATIONS EXCISE TAX

Section	Meaning of "Gross Charges"
495.100	Exemptions
495.105	Retailers
495.110	Interstate
495.115	Mobile Operations Reporting Option
495.120	Responsibility for Accounting and Payment of Tax
495.125	Credits
495.130	

AUTHORITY: Implementing the Telecommunications Excise Tax Act [35 ILCS 630] and authorized by Section 17 of the Telecommunications Excise Tax Act [35 ILCS 630/17].

SOURCE: Adopted at 14 Ill. Reg. 11321, effective July 1, 1990; amended at 21 Ill. Reg. 13658, effective September 29, 1997; amended at 22 Ill. Reg. 11333, effective JUN 23 1998.

Section 495.105 Exemptions

The exemption for State Governments and State universities created by statute and political subdivisions extends only to telecommunications purchased by such entities for their own use. Such entities are not exempt from the obligation to collect and remit tax on sales of telecommunications to others when they act as retailers of telecommunications. For example, a university would be exempt from Telecommunications Excise Tax on purchases, by the university, of telecommunications services for use by its faculty and staff in the course of their duties. However, the same university would have an obligation to collect and remit tax on sales of telecommunications services to students in university dormitories.

(Source: Amended at 22 Ill. Reg. 11333, effective JUN 23 1998)

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Inspection Procedures for Type I School Buses

- 2) Code Citation: 92 Ill. Adm. Code 441

- 3) Section Numbers: Adopted Action:

441.10 Amend

441.25 Amend

441.40 Amend

441.Appendix A Amend

441.Appendix B Amend

441.Appendix C Amend

441.Appendix D Amend

441.Appendix E Amend

441.Appendix F Amend

441.Appendix G Amend

441.Appendix H Amend

441.Appendix I Amend

441.Appendix J Amend

441.Appendix K Amend

441.Illustration E Repeal

441.Illustration F New Section

- 4) Statutory Authority: Implementing and authorized by Article VIII of the Illinois Vehicle Equipment Law [625 ILCS 5/Ch. 12, Art. VIII] and the Illinois Vehicle Inspection Law [625 ILCS 5/Ch. 13].

- 5) Effective date of rules: June 29, 1998

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this amendment contain incorporations by reference? No

- 8) Date filed in agency's principal office: June 30, 1998

- 9) Notice of proposal published in Illinois Register: December 1, 1997, 21 Ill. Reg. 15093

- 10) Has JCAR issued a Statement of Objections to these rules? No

- 11) Differences between proposal and final version:

Various grammatical and typographical changes were made in agreement with JCAR and the Code Division. Substantive changes were made in response to public comment and/or in agreement with JCAR and are as follows:

The heading of Appendix I has been changed on the Table of Contents page and in the text.

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

The heading of Appendix J has been changed on the Table of Contents page and in the text.

At Section 441.Appendix I(a), the procedures and specifications for seat belts have been changed. Additionally, the standards for "REJECT VEHICLE IF" have been changed.

At Section 441.Appendix I(c), provisions regarding child restraint systems have been deleted and a clarification of what is meant by "jump or portable seats" has been included.

At Section 441.Appendix J, a new subsection (f) has been added pertaining to Trash Containers.

At Section 441.Illustration F, the Department has included an Agency Note in order to explain the use of Table 3.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes

- 13) Will this rule replace an Emergency Rule currently in effect? No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and purpose of rules: By this Adopted Notice, the Department has updated, clarified, and corrected the Illinois school bus inspection procedures. This amendment corresponds with the adoption of 92 Ill. Adm. Code 458. Part 458 addresses the school bus driver's pretrip inspection requirements which the Department has removed from this Part. Section 441.Illustration E is repealed and a new Illustration, Illustration F: School Bus Emergency Exits, is added to the Part. The following details specific changes made to Sections in this Part.

Section 441.10 Purpose and Scope: The Department has removed the reference to the daily pretrip inspection requirements performed by the school bus driver. These requirements have been adopted at 92 Ill. Adm. Code 458.

Section 441.25 Incorporation by Reference of Federal Regulations: The Department has updated the reference to the federal regulations as of October 1, 1996, and has deleted the references to federal final rules which are now contained in the CFR.

Section 441.40 Definitions: The Department has added a definition of "interstate school bus", has removed the reference to "state certification label" in the definition of "Manufacturer", has removed the definition of "newton", has amended the definition of "school bus" and has added a definition of "seating reference point".

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Section 441.Appendix A Air Cleaner through Barrier, Guard: The Department has updated the reference to the federal regulations, has clarified the requirements for aisles adjacent to side emergency doors, has added an Agency Note regarding flip-up seats, and has clarified language regarding height requirements for guard barriers.

Section 441.Appendix B Battery or Batteries through Bumper, Front: The Department has amended the rejection criteria for brake drums/discs, has clarified language regarding emergency brake warning lights, has added inspection criteria for low pressure warning devices for air brake systems, has clarified language for inspecting hydraulic brake systems, has corrected the reference to Brake Inspection Report, has added rejection criteria for computerized brake testing equipment, and has replaced language for crossing control arms with a reference to crossing control arm in Appendix C.

Section 441.Appendix C Bumper, Rear through Drive Shaft, Guard: The Department has deleted the "s" in the word "standards" in Defrosters and has added criteria for crossing control arms pursuant to P.A. 90-108, effective July 14, 1997.

Section 441.Appendix D Electrical System through Fenders: The Department has updated the references to the federal regulations, has clarified the language for alarms and installation specifications on roof hatches, has added criteria for inside release mechanisms on side emergency exits, has added criteria for the condition of doors and rubber seals around the doors, has added language regarding side emergency exits for buses manufactured on or after September 1, 1994, has clarified language regarding alarms on emergency exits, has added language for locks and alarms on entrance doors, has clarified procedures for inspection of exhaust systems, and has removed "patching" of exhaust system from rejection criteria.

Section 441.Appendix E Filter, Oil through Frame and Body: The Department has added "interior engine cover" to inspection of floors and floor covering, and has removed the requirement that floor covering be "rib type."

Section 441.Appendix F Fuel Storage and Delivery System through Horn: The Department has corrected the reference to Section 441.Illustration E and has corrected language regarding the placement of a fuel identification decal for vehicles powered by an alternate fuel system, and has added additional inspection procedures for inspection of interior grab handles.

Section 441.Appendix G Instruments and Instrument Panel through Locked Compartment: The Department has added voltmeter to instruments and instrument panel, has updated the reference to the federal regulations,

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

has corrected the reference to alternate fuel decal, has removed language regarding optional route identification markers from the exterior section of lettering (the language is located in the interior section), has added language requiring the vehicle's length to be posted inside the bus (effective 1/1/99), has added requirements for color order of flashing lights, has added a requirement for flashing light's pilot lights to function, has added inspection criteria for high/low beams on headlights, and has deleted the requirement that armored turn signal lamps be "flush mounted."

Section 441.Appendix H Mirrors through Rub Rails: The Department has deleted the requirement that all mirrors be adjustable, has added the requirement that all mirrors meet FMVSS 49 CFR 571.111 (Rearview Mirrors), has deleted the requirement that the right side safety mirror be adjustable, has added language that allows retroreflective tape to be located on the rear bumper under certain conditions, has added criteria for optional white roofs, has clarified language regarding required and optional retroreflective tape, has clarified the requirement for padding interior roof projections, has added an Agency Note for cross reference to Radio Noise requirements, and has added "Radio Noise" as a component to establish criteria for location of radio/stereo speakers.

Section 441.Appendix I Seat Belt, Driver's through Steps, Entrance: The Department has deleted the requirement that optional passenger seat belts meet federal standards (no federal standards exist for vehicles this size), has clarified requirements for the optional retractor on the driver's seat belt, has clarified what is meant by a jump or portable seat, has deleted the reference to the distance between the driver's seat and the first seat behind the driver (federal standard prevails), has added specific procedures to measure the height of a seat back, has clarified rejection criteria for measuring seat back height, has removed language which references guard barrier requirements (See Section 441.Appendix A Air Cleaner through Barrier, Guard.) and has corrected language regarding flip-up seats.

Section 441.Appendix J Stop Signal Arm Panel through Trash Container (Optional): The Department has renamed "stop arm panel" to "stop signal arm panel" for consistency with 92 Ill. Adm. Code 440, has added requirements for additional (optional) stop signal arm panels, has added "broken" as rejection criteria for shocks and has added specifications for optional trash containers.

Section 441.Appendix K Undercoating through Windshield Wipers: The Department has amended the inspection procedures and the rejection criteria for measuring the tread groove depth of tires on the drive axle -- the procedures are not identical to those used on the steering axle, has moved and clarified the statement regarding the location where tire measurement is prohibited, has amended the rejection criteria for windows,

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

and has added rejection criteria for "star chips" on the windshield.
Section 441. Illustration E, Driver's Pretrip Inspection Requirements and Sample Form: The Department has repealed the illustration to remove the school bus driver pretrip inspection requirements to correspond with 92 Ill. Adm. Code 458 (School Bus Driver's Pretrip Inspection Requirements).

Section 441. Illustration F, School Bus Emergency Exits: The Department has added Section 441. Illustration F to clarify federal standards which require additional emergency exits on school buses depending on the size of the bus.

- 16) Information and questions regarding these adopted amendments shall be directed to:
- Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER e: TRAFFIC SAFETY (EXCEPT HAZARDOUS MATERIALS)
PART 441
INSPECTION PROCEDURES FOR TYPE I SCHOOL BUSES

Section	Purpose and Scope
441.10	Application
441.20	Standards of Construction
441.25	Definitions
441.30	APPENDIX A
441.40	APPENDIX B
APPENDIX A	Air Cleaner through Through Barrier, Guard
APPENDIX B	Battery or Batteries through Through Bumper, Front
APPENDIX C	Bumper, Rear through Through Drive Shaft Guard
APPENDIX D	Electrical System through Through Fenders
APPENDIX E	Filter, Oil through Through Frame and Body
APPENDIX F	Fuel Storage and Delivery System through Through Horn
APPENDIX G	Instruments and Instrument Panel through Through Locked
APPENDIX H	Compartment
APPENDIX I	Mirrors through Through Rub Rails
APPENDIX J	Seat Belt, Driver's through Through Betts-Thru Steps, Entrance
APPENDIX K	Stop Signal Arm Panel through Through Trash Container
ILLUSTRATION A	(Optional) Tow-Hooks
ILLUSTRATION B	Undercoating through Through Windshield Wipers
ILLUSTRATION C	Stop Arm Panels
ILLUSTRATION D	Exhaust Guidelines
ILLUSTRATION E	Brake Inspection Report
ILLUSTRATION F	Propane Decal
ILLUSTRATION G	Driver's Pre-Trip Inspection Requirements and Sample Form
ILLUSTRATION H	(Repealed)
ILLUSTRATION I	School Bus Emergency Exits

AUTHORITY: Implementing and authorized by Article VIII of the Illinois Vehicle Equipment Law [625 ILCS 5/Ch. 12, Art. VIII] and the Illinois Vehicle Inspection Law [625 ILCS 5/Ch. 13].

SOURCE: Adopted at 19 Ill. Reg. 4523, effective March 13, 1995; amended at 22 Ill. Reg. 11889, effective JUN 23 1998.

Section 441.10 Purpose and Scope

This Part prescribes the requirements of the Illinois Department of Transportation governing:

- a) Implementation of Article VIII, the Illinois Vehicle Equipment Law [625 ILCS 5/Ch. 12, Art VIII]; and

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- b) Inspection procedures for Type I school buses.7-and
 c) Performance-of-the-daily-pre-trip-inspection-by-school-bus-drivers-

(Source: Amended at 22 Ill. Reg. 11889, effective
JUN 29 1998)

Section 441.25 Incorporation by Reference of Federal Regulations

Whenever this Part refers to the Code of Federal Regulations and that reference incorporates the federal regulations by reference, the federal regulations incorporated shall be that which was effective as of October 1, 1996 1999,---as amended--at--57-PR-49413--November-27-1992--as-amended-at-57-PR-57880--December 27-1992--as-amended-at-57-PR-57880--December-27-1992--and-as-amended--at--59--PR 22997--May--47-1994 not including any later amendments or editions. Copies of appropriate federal regulations are available for inspection at the Department's Commercial Vehicle Safety Section.

(Source: Amended at 22 Ill. Reg. 11889, effective
JUN 29 1998)

Section 441.40 Definitions

"Body" - Portion of vehicle that encloses the occupant and cargo spaces and separates those spaces from the chassis frame, engine compartment, driveline, and other chassis components, except certain chassis controls used by the driver.

"Body-on-Chassis" - Completed vehicle consisting of a passenger seating body mounted on a truck type chassis (or other separate chassis) so that the body and chassis are separate entities, although one may reinforce or brace the other.

"Bus" - Every motor vehicle, other than a commuter van, designed for carrying more than ten persons. (Section 1-107 of the Illinois Vehicle Code (the Code)) [625 ILCS 5/1-107]

"Chassis" - Every frame or supportive element of a school bus that contains but is not limited to the axles, engine, drive train, steering components, and suspension which the body is attached to. (Section 1-110.1 of the Code)

"Code" - The Illinois Vehicle Code [625 ILCS 5].

"Commercial Vehicle Safety Section" (CVSS) - A section of the Bureau of Safety Programs of the Division of Traffic Safety of the Illinois Department of Transportation.

"Department" - The Department of Transportation of the State of

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Illinois, acting directly or through its authorized agents or officers. (Section 13-100 of the Code)

"Empty Weight" - Unloaded vehicle weight; i.e., the weight of a vehicle with maximum capacity of all fluids necessary for operation of the vehicle but without cargo or occupant.

"Federal Motor Vehicle Safety Standards" (FMVSS) - The rules, regulations and standards set forth in 49 CFR 571.

"Gross Vehicle Weight Rating or GVWR" - The value specified by the manufacturer as the loaded weight of the school bus. (Section 12-800 of the Illinois Vehicle Equipment Law)

"Illinois Vehicle Equipment Law" - 625 ILCS 5/12-100 through 12-902}

"Interstate School Bus" - Any school bus not owned by a school district designed to transport 16 or more persons, including the driver, that is used for interstate charter purposes (i.e., travels to another state). The bus must be marked with a federal Interstate Commerce Commission (ICC) number. Interstate school buses require an annual inspection that meets 49 CFR 396 - Appendix G as well as the semi-annual or 10,000 mile inspection required by 625 ILCS 5/13-101.

"Manufacturer" - (unless otherwise indicated at the point of use) means the person or organization whose name follows "MANUFACTURED BY" or "MFD BY" on the federal and-state certification label.

"Newton"---(N)---Metric-unit-of-force-and-weight---N---mass-multiplied by-the-standard-acceleration-of-free-fall--or--"gravity"---(g---9.807).

"Passenger" - Every occupant of the vehicle who is not the driver.

"Purchase Date" - Date when purchase transaction was completed, not when body or chassis was built.

"School Bus" -

Type I School Bus - A School Bus with gross vehicle weight rating of more than 10,000 pounds.

Type II School Bus - A School Bus with gross vehicle weight rating of 10,000 pounds or less. (Section 12-800 of the Illinois Vehicle Equipment Law)

Every motor vehicle, except as provided below, owned or operated by or for any of the following entities for the transportation of persons regularly enrolled as students in grade 12 or below in

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

connection with any activity of such entity:

Any public or private primary or secondary school;

Any primary or secondary school operated by a religious institution; or

Any public, private or religious nursery school.

This definition shall not include the following:

A bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interurban transportation of passengers when such bus is not traveling a specific school bus route but is:

On a regularly scheduled route for the transportation of other fare paying passengers;

Furnishing charter service for the transportation of groups on field trips or other special trips or in connection with other special events; or

Being used for shuttle service between attendance centers or other educational facilities.

A motor vehicle of the first division. (Section--1-102--of the-Code)

A motor vehicle designed for the transportation of not less than 7 nor more than 16 persons that is operated by or for a public or private primary or secondary school, including any primary or secondary school operated by a religious institution, for the purpose of transporting not more than 15 students to and from interscholastic athletic or other interscholastic or school sponsored activities. (Section 1-182 of the Code)

"Seating Reference Point" - the unique design H-point, as defined in SAE J1100, which simulates the position of the pivot center of the human torso and thigh. Each school bus manufacturer utilizes different criteria to determine the specific seating reference point on passenger seats for vehicles they manufacture.

"Vehicle" -

First Division: Those motor vehicles which are designed for the carrying of not more than ten persons.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Second Division: Those vehicles which are designed for carrying more than ten persons, those designed or used for living quarters and those vehicles which are designed for pulling or carrying property, freight or cargo, those motor vehicles of the First Division remodelled for use and used as motor vehicles of the Second Division, and those motor vehicles of the First Division used and registered as school buses. (Section 1-217 of the Code)

(Source: Amended at 22 Ill. Reg. 11883, effective JUN 29 1998)

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

Section 441. APPENDIX A Air Cleaner through Through Barrier, Guard

a) AIR CLEANER

PROCEDURE/SPECIFICATIONS:

Any type is acceptable.

REJECT VEHICLE IF:

Air cleaner is not properly attached or is missing.

b) AISLE

PROCEDURES/SPECIFICATIONS:

Unobstructed minimum clearance leading from service door to emergency door (or back of bus) must be at least 12 inches (305 mm) wide. For buses manufactured in July 1987 or later, aisle width at two inches below top of seat back must be 15 inches (380 mm). Floor to ceiling height must be a minimum of 68.9 inches (1.75 m) at any location within the aisle.

An A-dedicated aisle may be adjacent to any side emergency door. For buses manufactured on or after September 1, 1994, the following must be met:

- 1) The aisle must be unobstructed at all times.
- 2) No portion of a seat or barrier may extend past the door opening.
- 1) An unobstructed aisle measuring at least 11.7 inches (30 cm) must be maintained at all times, except when a flip-up seat is in the down position.
- 2) No portion of the door latch mechanism can be obstructed by a seat.
- 3) The there must be at least 11.7 inch inches (30 cm) aisle is measured from the door opening to the seat back in front. (49 CFR

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

571.217) (57-PR-49413, November-27-1992) --as amended-at-59-PR-22997, May-47-1994

AGENCY NOTE:

Flip-up seats are allowed. See SEATS, PASSENGER for standards.

REJECT VEHICLE IF:

Aisle does not meet minimum standards.

c) ALTERNATOR
(GENERATOR)

PROCEDURES/SPECIFICATIONS:

The generator, or alternator with rectifier, shall have a minimum capacity rating of 60 amperes and shall be capable of meeting all electrical requirements.

REJECT VEHICLE IF:

Alternator does not meet minimum standards or is not functioning.

d) AXLES

PROCEDURES/SPECIFICATIONS:

Must meet federal chassis requirements as indicated on federal certification label. (49 CFR 568) (1992)

REJECT VEHICLE IF:

Axles show visible signs of apparent damage, leaking fluids or are not firmly attached.

e) BARRIER,
GUARD

PROCEDURES/SPECIFICATIONS:

A guard barrier, constructed and thickly padded so as to provide head, knee and leg protection, shall be installed in front of each forward facing passenger seat that does not directly face the rear surface of another passenger seat. The barrier must measure the same height as the passenger seat back directly behind that barrier (49-PR-24

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

inches). [49 CFR 571.222]

In a bus manufactured in January 1988 or later, guard barriers must measure the same height required of as the seat back directly behind that barrier {five-~~7~~-~~28~~-inches}.

Exception: In a bus manufactured from July 1, 1987, to December 31, 1987, the barrier may measure be less than the required 28-inch seat back behind the barrier.

Exception: In a bus with chassis (incomplete vehicle) manufactured in March 1977 or earlier, the barrier may consist of a floor-to-ceiling vertical stanchion, padded to within three inches of ceiling and floor, and a stanchion-to-wall, fully padded, horizontal guard rail. However, if located adjacent to stepwell, this type barrier shall include a stepwell guard panel that extends from the stanchion to the wall and from the guard rail to within two inches of the floor.

Exception: All buses manufactured prior to September 1974 are exempt from padding on stanchions and guard rails.

Exception: See 92 Ill. Adm. Code 445.Appendix A (Inspection Procedures for Special Education School Buses) for possible exception.

REJECT VEHICLE IF:

Barrier is not solidly attached. Padding or covering shows wear and tear. Barrier does not meet requirements.

(Source: Amended at 22 Ill. Reg. 11089, effective JUN 2 1986)

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

Section 441.APPENDIX B Battery or Batteries through Phrough Bumper, Front

a) BATTERY OR
BATTERIES

PROCEDURES/SPECIFICATIONS:

One or more batteries may be mounted either in engine compartment or on outside of passenger/driver area. Battery (or batteries together) in a 12 volt system shall be rated, when new, to provide the following:

Engine manufacturer's recommended Cold Cranking Current (amperes for 30 seconds) at -18 degrees C (0 degree F) or, at the purchaser's option, at -29 degrees C (-20 degrees F).

The battery(s) shall provide a Reserve Capacity (duration of 25 ampere current flow) at 27 degrees C (80 degrees F) for no less than 135 minutes.

Low rate discharge capacity of 90 ampere-hours or more (20 hour discharge test at 80 degrees F).

Exception: A bus manufactured in August 1974 or earlier may have a 70 ampere-hour battery, in a 12 volt system.

REJECT VEHICLE IF:

Battery or batteries are not securely mounted; excessively corroded; of insufficient capacity.

b) BATTERY
CABLES

PROCEDURES/SPECIFICATIONS:

Check condition.

REJECT VEHICLE IF:

Cables are corroded or are not securely attached.

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

c) BATTERY
CARRIER

PROCEDURES/SPECIFICATIONS:

When the battery is mounted outside the engine compartment it shall be welded or bolted in a closed, weather-tight, and vented compartment that is located and arranged so as to provide for convenient routine servicing. The battery compartment door, or cover, shall be secured by a manually operated latch or other fastener. A latch or fastener must be designed in such a fashion as to keep the door closed when in the latched position. Each electrical cable connecting the battery in this carrier to the body or chassis shall be one piece between the terminal connector and the first body or chassis terminal connector.

REJECT VEHICLE IF:

Battery carrier does not meet requirements.

d) BRAKES

PROCEDURES/SPECIFICATIONS:

Every motor vehicle shall be equipped with two separate means of applying the brakes and they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes. (Section 12-301(a) of the Illinois Vehicle Equipment Law)

REJECT VEHICLE IF:

Brakes do not meet requirements.

1) Backing
Plate

PROCEDURES/SPECIFICATIONS:

Check condition.

REJECT VEHICLE IF:

Backing plate is in poor condition.

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

2) Drums/
Discs

PROCEDURES/SPECIFICATIONS:

Inspect drums and/or discs for cracks or for being worn or reworked beyond the manufacturer's minimum limits marked-discard-limit.

REJECT VEHICLE IF:

Worn or reworked beyond the manufacturer's minimum following limits:

- 1) Drum diameter-.040-inch-(.1mm)-under marked-discard-limit-on-type-i-bus-
- 2) Drum diameter-.030-inch-(.75mm)-under marked-discard-limit-on-type-ii-bus-
- 3) Disc thickness-.030-inch-(.75mm)-over marked-discard-limit-on-any-bus-
- 4) Other-rework-(rebores-reface)-limit specified-by-chassis-manufacturer-

PROCEDURES/SPECIFICATIONS:

Emergency/parking brake system must apply brakes to at least two wheels. (Section 12-301(a) of the Illinois Vehicle Equipment Law)

Micro brakes are not considered a separate means of braking and are not acceptable.

Procedures for testing:

- 1) Apply operating control fully.
 - 2) Check actuating mechanism for release.
- Brake Performance Test:
Using Drive-On Pad Type Tester:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Drive vehicle onto brake machine pads at 4-8 m.p.h.
- 2) Apply emergency/parking brakes to bring vehicle to a halt. Do not lock wheels.
- 3) Note the braking forces registered by the brake machine.

Using Roll-On Type Tester:

- 1) Position axle with emergency brake onto roller.
- 2) Apply emergency brake but do not lock wheels.

REJECT VEHICLE IF:

Emergency/parking brake does not meet requirements.

Procedures for testing:

- 1) Not equipped with emergency/parking brakes. Operating mechanism does not hold in the applied position.
- 2) Actuating mechanism does not fully release when release control is operated properly.

Brake Performance Test:

Drive-On Tester:

Machine does not register a total braking force of at least 20% of vehicle empty weight. Braking forces at opposite wheels on same axle vary more than 20%.

Roll-On Tester:

Machine does not register a total braking force of at least 20% of vehicle empty weight. Braking forces at opposite wheels on same axle vary more than 20%.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 4) Emergency Brake Ratchet (Pedal or Lever)

PROCEDURES/SPECIFICATIONS:

Must be in proper adjustment. If vehicle was manufactured with a warning light, it ~~A warning light~~ must be visible when emergency brake is activated.

REJECT VEHICLE IF:

Emergency brake ratchet or warning light do not meet requirements.

- 5) Pedal Clearance (Service Brakes)

PROCEDURES/SPECIFICATIONS:

Minimum 1 1/2 inch clearance with pedal fully depressed.

REJECT VEHICLE IF:

Pedal clearance does not meet requirements.

- 6) Power Systems

A) Air

i) Air PressurePROCEDURES/SPECIFICATIONS:

With air system fully charged (compressor governor "cut-out") run engine at low idle. Make one full (maximum) brake application and immediately record reservoir air pressure.

Apply and release brakes until pressure indicated on the air gauge is at least 10 psi

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

(i.e. pounds per square inch) below governor "cut-in" pressure. Run engine at high idle and determine seconds required to raise reservoir pressure from recorded pressure.

REJECT VEHICLE IF:

Time required to raise air pressure from recorded to cut-out is more than 30 seconds. Air gauge is missing or does not operate.

ii) Low Pressure Warning DevicePROCEDURES/SPECIFICATIONS:

Complete the following steps to evaluate low pressure warning device.

- 1) Before starting the engine, apply brakes and release until low air pressure warning device functions.
 - 2) Start the engine.
 - 3) Apply service brakes and release until air compressor is activated.
 - 4) Continue to run engine until compressor cut-out pressure is reached.
 - 5) Record compressor cut-out pressure.
 - 6) Shut engine off.
- Determine if low pressure warning device is missing or inoperative.

If located in the driver's forward field of view, the warning device can be a visual device only. If not located in the driver's front view, the device must be both audible and visible. For buses manufactured before September 1, 1974, the device can be either audible or visible.

Record the reading found on the pressure gauge at which the low pressure warning device functions.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

REJECT VEHICLE IF:

Missing or inoperative low pressure warning device. Device does not meet requirements.

Low pressure warning device does not operate at 55 psi or one half cut-out pressure, whichever is less.

B) Electric/
Hydraulic

PROCEDURES/SPECIFICATIONS:

Turn key to engine "off-" position. Depress service brake pedal. Electric hydraulic pump must come "on" (listen).

REJECT VEHICLE IF:

Electric pump does not operate properly or is absent.

C) Hydraulic

PROCEDURES/SPECIFICATIONS:

Inspect booster belt(s), supports, tubes, hoses, connections and general condition. Clean reservoir and cover as necessary and check master cylinder fluid level. Do not contaminate fluid.

Turn key to engine "on-" position.

Warning signal must come on (look/listen). Depress brake pedal lightly. Start engine. Pedal must move downslightly (feel). Warning signal must go "off" (look/listen).

REJECT VEHICLE IF:

Belt is slack or worn; tube or hose is damaged; any part leaks or is cracked; master cylinder fluid is below manufacturer's recommended capacity maximum-level.

Either booster or warning signal does not operate properly.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

D) Vacuum/
HydraulicPROCEDURES/SPECIFICATIONS:

Inspect tank(s), chambers, hoses, tubes, connectors, clamps, and booster air cleaner.

Inspect supports and attachments.

With engine off, repeatedly apply service brakes until vacuum is depleted, with medium pressure on brake pedal, start engine; release brake and operate engine until maximum vacuum is established; stop engine; apply service brakes hard.

With brakes still applied, start engine; after one minute of running engine, check "Low Vacuum" indicator.

REJECT VEHICLE IF:

Any component is restricted, collapsed, scraped, cracked, loose, or broken. Booster air cleaner is clogged.

Any support or attachment is broken. Any connecting line or other component is not attached or supported so as to prevent damage from scraping or rubbing.

Foot pedal does not fall away from foot when engine is started; insufficient vacuum reserve to permit one full service brake application after engine is off without actuating "low vacuum" indicator; valve or diaphragm leaking.

7) Service
BrakesPROCEDURES/SPECIFICATIONS:

Must be equipped with service brakes on all wheels. (Section 12-301(a)(5) of the Illinois Vehicle Equipment Law)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Must be equipped with a "split system" on service brakes. [49 CFR 571.105]

Power-assisted service brakes are required. [49 CFR 571.105]

REJECT VEHICLE IF:

Service brakes do not meet requirements.

A) Brake
Inspection
ReportPROCEDURES/SPECIFICATIONS:

Verify Brake Inspection Report for following (refer to Section 441.Illustration C for example of form):

1) Vehicle Identification Number (VIN), make and year must correspond to the bus presented for inspection.

2) The Brake Inspection Report must indicate the date and mileage at time the brake inspection was performed. If date is more than one year prior to time of inspection or mileage has exceeded 10,000 miles, a brake inspection must be performed.

3) The form must be completed with all required information. No blank lines are acceptable.

Exception: If the bus has operated less than 10,000 miles and less than 12 months have passed since the bus was manufactured, a Brake Inspection Report ~~an-SB6 form~~ is not required. Write "Less than 10,000 miles and less than one year old" in the remarks section on the Vehicle Inspection Report.

REJECT VEHICLE IF:

Absent, invalid, or incomplete Brake Inspection Report.

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

B) Brake
Performance
Test

PROCEDURES/SPECIFICATIONS:

Using Drive-On Pad Type Brake Tester:

Check vehicle's stopping ability before testing.

Drive vehicle onto brake machine pads at 4-8 m.p.h.

Apply service brakes to bring vehicle to a halt. Do not lock wheels.

Note the braking forces registered by the brake machine.

Using Roll-On Type Tester:

When using roller-type tester each axle must be tested separately. Transmission must be in neutral when testing brakes on any drive axle.

Drive front axle onto rollers. Start roller motor. Apply service brakes but do not lock wheels.

Repeat the above steps for each axle.

The total braking force on a vehicle must be determined by adding the results of the test on each axle.

REJECT VEHICLE IF:

Drive-On Tester:

Machine does not register a total braking force of at least 60% of the vehicle empty weight.

Computerized tester does not register a total braking force of at least 45% of the vehicle empty weight.

Roll-On Tester:

e) BUMPER,
FRONT

PROCEDURES/SPECIFICATION:

Either channel type, formed of rolled steel at least .177 inch (4.5 mm) (approximately 3/16 inch) thick, or approved energy absorbing type.

Buses manufactured in August 1974 or later must have 7.9 inches (200 mm) or more vertical black face.

Bumper must extend to outer edges of fenders and other front end sheet metal. Must be of strength to permit pushing vehicle of equal weight without permanent distortion.

(See CROSSING CONTROL ARM in Section 441. Appendix C for requirements.) Bumper may be equipped with a crossing-control arm--crossing-control arms can only display yellow reflectors or yellow lamps.

Exception: Buses manufactured prior to September 1974 are exempt from bumper thickness and 7.9 inch face requirement.

REJECT VEHICLE IF:

Front bumper does not meet thickness, face height and color requirements. Must be solidly attached, in good condition, free from damage and sharp edges.

(Source: Amended at 22 Ill. Reg. 1.100, effective JUN 29 1998)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Section 441.APPENDIX C Bumper, Rear through Threugh Drive Shaft Guard

a) BUMPER,
REARPROCEDURES/SPECIFICATIONS:

Channel steel at least .18 inch (4.55 mm) (approximately 3/16 inch) thick with a minimum 8.9 inches (225 mm) black face, full wrap around and attached so as to prevent hitching rides (i.e., "nonhitchable").

Shall be attached so that removal is possible by commonly available hand tools.

Shall be of strength to permit bus being pushed by another vehicle without permanent distortion.

AGENCY NOTE:

"Nonhitchable" is defined as the rear of the bus being designed and maintained to prevent or discourage riding or grasping rear of bus so as to "hitch" rides.

REJECT VEHICLE IF:

Rear bumper does not meet requirements. Not solidly attached. Sharp edges are present. Rear bumper is hitchable.

b) CERTIFICATE AND
REGISTRATION
CARD HOLDERPROCEDURES/SPECIFICATIONS:

At least one card holder with a transparent face no less than 5.9 inches by 3.9 inches (150 mm by 100 mm) shall be securely affixed to the inside header panel out of students' easy reach.

REJECT VEHICLE IF:

Certificate and registration card holder does not meet requirements.

c) CERTIFICATION
LABEL (FEDERAL)PROCEDURES/SPECIFICATIONS:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Inspect federal certification label if the chassis (incomplete vehicle) was manufactured on or after June 1, 1971. The certification label may be supplemented by an alterer's certification.

The manufacturer's label must contain the following information:

- 1) Name of vehicle (bus) manufacturer and the month and year in which manufacture of the vehicle was completed;
- 2) Name of incomplete vehicle (chassis) manufacturer and the month and year in which he performed his last manufacturing operation on the incomplete vehicle;
- 3) Gross vehicle weight rating, or ratings (GVWR);
- 4) Gross axle weight ratings (GAWR);
- 5) The statement, "This vehicle conforms to all applicable federal motor vehicle safety standards in effect in (month/year)";
- 6) The vehicle identification number (VIN);
- 7) The vehicle's classification (usually "BUS" "bus"). [49 CFR 567.5]

Alterer's certification: A certified vehicle might have been altered before its purchase for use as a school bus. The alterations may have included, but are not limited to, classification changes, gross weight rating changes, or changes to the application/effective date of a federal motor vehicle safety standard. If any such alteration occurred, the bus must carry an additional federal label that identifies the alterer, shows when alteration was completed, "as altered" GVWR, GAWR and classification (if changed). It must also state that the altered vehicle conforms to all applicable federal motor vehicle safety

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

standards in effect in (month/year). (49 CFR 567.7)

REJECT VEHICLE IF:

A required label is absent, defaced, destroyed, not riveted, or not permanently affixed. "Permanently affixed" means the label cannot be removed without destroying or defacing it.

A certification label does not contain the required statement and all other information required for that label.

d) CROSSING CONTROL
ARM

PROCEDURES/SPECIFICATIONS:

- 1) Required on school buses manufactured after December 31, 1997.
- 2) Must meet or exceed SAE J1133.
- 3) Must be capable of full operation between, and including, the temperatures -40° F and 160° F.
- 4) The arm, when activated, must extend a minimum of five feet from the front face of the bumper.
- 5) The arm must be mounted on the far right side (entry side) of the front bumper.
- 6) Appropriate brackets shall be used to attach the arm to the front bumper for proper operation and storage.
- 7) All component parts must meet or exceed any applicable federal motor vehicle safety standards in effect at the time of manufacture.
- 8) The arm must extend at the same time the stop arm panel extends. An independent "on/off" switch is prohibited.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 9) If the driver can stop the arm from extending with the use of an optional override switch, the arm sequence must automatically reset once the service door is closed.

- 10) Red lights and/or red reflectors are prohibited.

REJECT VEHICLE IF:

If equipped, arm does not meet requirements.

e) DEFROSTERSPROCEDURES/SPECIFICATIONS:

Using heat from heaters and circulation from fans, defrosting equipment shall keep the windshield, the windows to the left of the operator, and the glass in the service door clear of fog, frost, and snow. Must conform to federal standards 49 CFR 571.103. (Auxiliary fans are not considered to be a defrosting and defogging system.)

REJECT VEHICLE IF:

Defrosting system does not function properly.

Auxiliary fans are not securely mounted or blades are not protected.

f) DRIVE SHAFT
GUARD

PROCEDURES/SPECIFICATIONS:

Shall be of sufficient strength to protect each segment of the drive shaft and prevent it from going through the floor or dropping to the ground if broken.

REJECT VEHICLE IF:

Drive shaft guard is missing, not firmly attached, or does not properly protect each segment of the drive shaft.

(Source: Amended at 22 Ill. Reg. effective
JUN 29 1998)

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

Section 441.APPENDIX D Electrical System through through Fenders

a) ELECTRICAL
SYSTEM

1) Circuits

PROCEDURES/SPECIFICATIONS:

Shall be arranged in at least nine regular circuits as follows:

- 1) Head, tail, stop (brake) and instrument panel lamps;
- 2) Clearance lamps and any lamp in or adjacent to step risers;
- 3) Interior lamps;
- 4) Starter motor;
- 5) Ignition, emergency exit alarm signals and other alarm signals;
- 6) Turn signal lamps;
- 7) Alternately flashing signal lamps and stop signal arm lamps;
- 8) Horn;
- 9) Heater and defroster.

A separate fuse or circuit breaker for each circuit, except starter motor and ignition.

REJECT VEHICLE IF:

Breaks in insulation are present. Not on proper circuit or properly wired.

PROCEDURES/SPECIFICATIONS:

Two extra fuses for each size fuse used on the bus shall be conveniently mounted on the bus body.

REJECT VEHICLE IF:

3) Switches

PROCEDURES/SPECIFICATIONS:

Check operation and condition.

REJECT VEHICLE IF:

Switches are not operating properly or are missing.

4) Wiring

PROCEDURES/SPECIFICATIONS:

All wires shall be properly insulated and securely attached at not more than 18.1 inches (460 mm) intervals. Check condition.

REJECT VEHICLE IF:

Insulation is frayed or missing. Wiring not securely attached.

b) EMERGENCY
EXITS

PROCEDURES/SPECIFICATIONS:

All buses must be equipped with either a rear emergency door or a left side emergency door and a rear emergency window. (49 CFR 571.217)

Additional emergency exits, including roof hatches, may be required on buses manufactured on or after May 2, 1994. (49 CFR 571.217) (See Section 441.Illustration F) †57

FR-49413--November-27-1992††--as-amended at-59-FR-229977-May-47-1994†

For those buses manufactured on or after May 2, 1994, each opening for a required emergency exit must be outlined around its outside perimeter with a minimum 1 inch (2.54 cm) wide yellow retroreflective tape. This yellow retroreflective tape must be on the

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

exterior surface of the bus. (49 CFR 571.217) (57-FR-494137-November-27-1992)

Optional emergency roof hatches are allowed. They must be installed according to manufacturer's specifications. recommendations and no alarm is required.

Open and close roof hatches (required or optional) to verify their operation.

REJECT VEHICLE IF:

Emergency exits do not meet requirements.
Roof hatches do not open.

1) Side

PROCEDURES/SPECIFICATIONS:

Inside release mechanism must be protected against accidental release; easily accessible; and readily operated manually without the use of remote control, power device, or tool.

Shall be hinged on front side and open outward. Shall be equipped with safety glass (or equivalent). Glass shall be located in upper portion of the door. Door shall be of at least the same gauge metal as the body. Shall be 24 inches or more clear horizontal opening, with forward edge of opening in line with the rear most edge of a seat back. Shall have 45 inches or more clear vertical opening. Door and rubber seal must not be defective. (See Alarms and Locks in this subsection for requirements.)

For buses manufactured on or after September 1, 1994, there must be at least 11.7 inches (30 cm) measured from the door opening to the seat back in front. (49 CFR 571.217)

REJECT VEHICLE IF:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Release mechanism is not protected, accessible, or operable (inside and outside); unable to open easily; hinge is located at incorrect location; location and size of opening is incorrect. General condition of door and/or rubber seal is defective.

2) Rear

PROCEDURES/SPECIFICATIONS:

Inside release mechanism must be protected against accidental release; easily accessible; readily operated manually without use of remote control, power device, or tool.

Shall have permanently attached inside and outside release handles. Outside release handle must be non-hitchable.

Rear exit shall hinge on right; open outwards; have a 24 inch or more clear horizontal opening and 45 inch or more clear vertical opening above floor. Glazing shall be installed in upper and lower portions. Door and rubber seal must not be defective. (See Arms and Locks in this subsection for requirements.)

Exception: Buses manufactured before September 1974 are exempt from glazing in lower portion of rear emergency door.

REJECT VEHICLE IF:

Inside release mechanism is not protected. Inside and outside release mechanisms are not accessible or do not operate properly. Outside release mechanism is hitchable. Door does not open easily. Location of hinge is incorrect. Size of opening is incorrect. Glazing does not meet requirements. General condition of door and/or rubber seal (rubber-and-seat) is defective poor.

3) Emergency Window

PROCEDURES/SPECIFICATIONS:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

When the emergency door is located on the left side, a rear emergency window shall be provided. Minimum 16 inches high and 48 inches wide. Designed to be opened from the inside or the outside. Hinged on top, designed and operated to insure against accidental closing in an emergency. Inside handle shall provide for quick release. Outside handle shall be nondetachable and nonhitchable. (See Alarms and Locks in this subsection for requirements.)

Optional emergency windows are allowed. They must be labeled labelled "Emergency Exit" in letters at least two inches high, of a color that contrasts with its background, located at the top of or directly above the window on the inside surface of the bus.

REJECT VEHICLE IF:

If equipped, operating operating mechanisms do not function. Glass is cracked or broken.

4) Alarms and Locks

PROCEDURES/SPECIFICATIONS:

Audible-and-visual-alarms-shall-alert-driver when-engine-is-running-and-any-required emergency-exit-or-optional-emergency-exit door-either:

- 1) Is-not-fully-latched,or
- 2) Is-locked-and-not-readily-operated-manually-

Optional-emergency-exit-windows-must-be equipped-with-an-audible-alarm-which-is activated-when-the-above-criteria-is-met-

Both audible and visible alarms shall alert the driver when engine is running and any emergency exit door either:

- A) Is not fully latched, or
- B) Is locked and not readily operated manually.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

An audible alarm shall alert the driver when engine is running and any emergency exit window either:

- A) Is not fully latched, or
- B) Is locked and not readily operated manually.

The engine starting system shall not operate while any emergency exit door or window (optional or required) is locked

"Locked" means that the release mechanism cannot be activated and the exit opened by a person at the exit without a special device such as a key or special information such as a combination.

Alarm cut-off or "squelch" control is prohibited.

Exception: No alarm is required for roof hatches.

Exception: On a bus with chassis (incomplete vehicle) manufactured in March 1977 or earlier, the "not fully latched" alarm may only be audible to the seated driver. The engine starting system may operate while the emergency door is locked.

REJECT VEHICLE IF:

Alarms do not alert driver as required. Locks do not meet requirements.

c) ENTRANCE DOOR

- 1) Physical Requirements

PROCEDURES/SPECIFICATIONS:

Minimum 24 inch horizontal opening. Minimum 68 inch vertical opening. Jack-knife or split type door required on buses purchased after September 1974. If split type door is used and one section opens inward and the other outward, front section shall open

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

outward. Door shall be located on the right side near the front convenient to the seated driver's unobstructed vision. Entrance door shall be power or manually operated from the driver's seat and designed to afford easy release and prevent accidental opening. No parts of the over center door control shall come together so as to shear sheer or crush fingers.

The over center door control must operate properly and must not bind or jam. Vertical closing edges shall be equipped with flexible material for a proper seal and to prevent injury. Lower and upper panels of door shall be of safety glass or equivalent. Bottom of lower panel shall be not more than 35 inches from ground when unloaded. Top of upper glass panel shall be not more than 6 inches from top of door. No door is permitted to left of driver.

A service door equipped with power shall also be capable of manual operation in case of power failure.

Exception: All buses purchased prior to September 1974 are exempt from split type door. They may be split, sedan, or jack-knife type.

REJECT VEHICLE IF:

Binding or jamming is evident, malfunctions, over-ride device on power operated door does not function, control not accessible by driver.

Door is missing, loose, or damaged. Rubber seal is missing or torn.

2) Locks and Alarms

PROCEDURES/SPECIFICATIONS:

A service door lock is not required, but if any type of service door locking system is installed on the bus, the system shall conform to at least one of the following:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 1) The locking system shall not be capable of preventing the driver from easily and quickly opening the service door from inside the vehicle; or
- 2) A locking system that is capable of preventing the bus driver from easily and quickly opening the service door shall include an audiovisual alarm. The alarm shall be audible and visible and must alert the driver when the engine is running and the service door is locked. An alarm disconnect, "squench control," or other alarm defeating or weakening device shall be prohibited; or
- 3) A locking system shall not be capable of preventing the bus driver from easily and quickly opening the service door except when a person outside the bus uses a key that is not capable of locking more than one of at least 1000 of the door manufacturer's key locking systems.

REJECT VEHICLE IF:

Locks and alarms do not meet requirements. Bent, worn, or dislocated parts that would delay quick door release and opening are present.

PROCEDURES/SPECIFICATIONS:

"Exhaust System" includes each component used to conduct gas from an engine exhaust port (manifold) to authorized exit point, including each sealing, connecting, and supporting component. Exhaust system shall be outside body and attached to chassis. Size of tail pipe tailpipe shall not be reduced after it leaves muffler. Any flexible component that contains exhaust gas shall be of stainless steel. System shall not leak. System shall have an outlet at its discharge end(s) only.

REJECT VEHICLE IF:

d) EXHAUST SYSTEM

1) General

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

All parts of system are not securely fastened and supported.

Any part of system is leaking or missing.

Any part of system contains holes not made by manufacturer.

2)++ Shielding

PROCEDURES/SPECIFICATIONS:

Any flammable material, electrical insulation, brake hose, or fuel system component containing fuel that is located within 11 13/16 inches (300 mm) of a component containing exhaust gas shall be safeguarded by a heat shield.

Exhaust system shall be shielded from either accidental contact, "hitching to," or "standing on," except at discharge end. A chassis or body component may provide required shield.

Exception: Fuel system components on diesel powered engines that are located within four inches of a component containing exhaust gas shall be shielded.

REJECT VEHICLE IF:

Shielding is not present (if applicable).

32) Discharge

PROCEDURES/SPECIFICATIONS:

The exhaust system's discharge end (tail pipe tailpipe) shall be within .98 inch (25 mm) of bus side, rear, or rear corner. It must not extend past-a-side-rub-rail-or more than one inch past the bumper. Exhaust fumes gas shall not be directed towards a door or other opening into bus body. In addition, the discharge end, or ends, shall not be located in any prohibited zone shown in Illustration B.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

REJECT VEHICLE IF:

All parts-of-system-are-not-securely-fastened and-supported.

Any part-is-leaking-missing, or-patched.

Any part-contains-holes-not-made-by manufacturer. Exhaust discharges into prohibited zones (see Illustration B).

Exhaust system (tail pipe) does not discharge in proper location.

Tail pipe extends more than one inch past the bumper.

Exhaust fumes are released towards a door or other opening into bus body.

e) FENDERS

PROCEDURES/SPECIFICATIONS:

Shall be properly braced and free from any body attachment.

There shall be approximately one inch located between front fenders and back face to cowl.

REJECT VEHICLE IF:

Fenders are not solid or in bad condition.

Sharp edges are evident.

Fenders are loose or protrude out.

(Source: Amended at 22 Ill. Reg. 11889, effective JUN 29 1998)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Section 441. APPENDIX E Filter, Oil through ~~the~~ enough Frame and Body

a) FILTER, OIL

PROCEDURES/SPECIFICATIONS:

Replaceable element or cartridge type.
Minimum one-quart capacity.

REJECT VEHICLE IF:

Oil filter leaks or does not meet requirements.

b) FIRE
EXTINGUISHERPROCEDURES/SPECIFICATIONS:

Pressurized dry-chemical gauge type approved by Underwriters' Laboratories, Inc., rating of not less than 10 B.C. mounted in bracket and readily accessible. Sealed with a type of seal that will not interfere with operation. If stored in locked compartment, compartment must be labelled. Halon fire extinguishers (10 B.C.) are approved.

REJECT VEHICLE IF:

Gauge does not indicate in the calibrated or marked "Full Charge" area. Seal is broken. Extinguisher is not mounted, not in a quick release holder or not labelled in compartment, if applicable. Improper rating. Missing.

c) FIRST AID KIT

PROCEDURES/SPECIFICATIONS:

Kit shall be readily identifiable, removable, and mounted in readily accessible place in driver's compartment -- either in full view or in specified secured compartment (see LOCKED COMPARTMENT). If not carried in compartment, the case shall be dust tight and substantially constructed of durable material. The contents shall include, but not be limited to, the following:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Unit Type (Minimum Contents)

4" bandage compress - 2 packages (May be 1 package in bus with chassis [incomplete vehicle] manufactured in March 1977 or earlier.)

2" bandage compress - 2 packages (May be 1 package in bus with chassis [incomplete vehicle] manufactured in March 1977 or earlier.)

1" bandage or adhesive compress - 1 package

40" triangle bandage with two safety pins - 1

Splint, wire or wood - 1

A tourniquet or any type of ointment, antiseptic, or other medicine shall not be included.

OSHA approved blood-borne pathogen kits are permitted.

REJECT VEHICLE IF:

Kit is not complete. Dust or other visible dirt is present inside case. Minimum number of individual packages are not sealed. Medicine or tourniquet is present. Locked compartment containing kit is not labelled. Not mounted in readily accessible location. Missing.

PROCEDURES/SPECIFICATIONS:

Covering in underseat area, including tops of wheel housings, driver's compartment, interior engine cover, and toeboard shall be covered with fire-resistant floor covering of type commonly used in passenger transportation equipment. The floor covering in the aisle and entrance area shall be a nonskid, wear-resistant,

AGENCY NOTE:

d) FLOORS AND
FLOOR
COVERING

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

and fire-resistant--and-rib type commonly used in commercial passenger transportation vehicles. Covering and metal floor stripping must be permanently bonded to floor and must not crack when subjected to sudden changes in temperature. Bonding or adhesive material shall be waterproof. All seams must be sealed with waterproof sealer.

All openings in floorboard or firewall between chassis and passenger-carrying compartment must be solid and sealed.

Boots and seals around shift levers, and emergency brakes and interior engine covers must be secure and solidly attached.

REJECT VEHICLE IF:

Abnormal wear and obstructions are present. Holes or openings are present in floors, floor covering, or boots. Metal floor stripping is not securely attached or broken. Interior engine cover is not fastened securely. Floor or floor covering does not meet requirements.

e) FRAME AND BODY

PROCEDURES/SPECIFICATIONS:

Visually inspect:

- 1) Body mounts shall be attached and sealed to the chassis cowl so as to prevent the entry of water, dust or fumes through the joint between the chassis cowl and the body.
- 2) Cross members and mounting bolts.
- 3) Engine mounting bolts.
- 4) Frame shall extend to rear of body cross member.
- 5) Frame extension is permitted when alterations are behind rear hanger or rear springs and not for the purpose of

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

extending wheel base.

- 6) Collision damage which is detrimental to the safe operation of the vehicle.

REJECT VEHICLE IF:

- 1) Cracked, loose, missing bolts. Any repair done by welding body to frame, insulation strip missing.
- 2) Loose, cracked, broken or missing.
- 3) Missing, loose.
- 4) Cracked, broken, bent, rusted to a depth as to substantially weaken frame - welding except by body manufacturer.
- 5) Unless permitted, frame extends past wheel base.
- 6) Collision damage which is detrimental to the safe operation of the vehicle.

(Source: Amended at 22 Ill. Reg. 11889, effective JUN 29 1998)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Section 441. APPENDIX F Fuel Storage and Delivery System through Whorough Horn

a) FUEL STORAGE
AND DELIVERY
SYSTEMPROCEDURES/SPECIFICATIONS:

Entire fuel system, except extensions for driver control of air or fuel, must be outside passenger and driver compartment.

REJECT VEHICLE IF:

Any part of fuel system, except extensions for driver control of air or fuel, is within passenger/driver compartment.

1) Fuel Filler
CapPROCEDURES/SPECIFICATIONS:

Meets manufacturer's specifications. Must be the same as or equivalent to original equipment.

REJECT VEHICLE IF:

Fuel filler cap is defective or missing.

2) Fuel Lines

PROCEDURES/SPECIFICATIONS:

Firmly attached. No leakage, seepage, abrasion, or chafing. Must be 11 13/16 inches (300 mm) from any part of exhaust system that contains exhaust gas or be safeguarded by a heat shield. Inside engine compartment, the chassis manufacturer's standard shall govern separation and shielding between parts designed by chassis manufacturer.

Exception: Fuel system components on diesel powered engines that are located within four inches of a component containing exhaust gas must be shielded.

REJECT VEHICLE IF:

Fuel lines are cracked, leaking, insecure mounting, damaged, clamps missing, mount

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

clips missing or not separated or not shielded properly (if applicable).

3) Fuel Filler
TubePROCEDURES/SPECIFICATIONS:

Check condition.

REJECT VEHICLE IF:

Fuel filler tube leaks or is not secure.

4) Fuel Pump

PROCEDURES/SPECIFICATIONS:

Check condition.

REJECT VEHICLE IF:

Fuel pump leaks, is damaged or is not secure.

5) Fuel
Tank(s)PROCEDURES/SPECIFICATIONS:

Tank must be safeguarded by structure that protects from side or angular impact blows. (49 CFR 571.301)

Exception: A bus with chassis (incomplete vehicle) manufactured in March 1977 or earlier is exempt from being equipped with a tank guard structure.

REJECT VEHICLE IF:

Fuel tank(s) have leakage, seepage, or abrasion; hole or crack that would leak or seep when tank is full.

6) Fuel tank
mount(s)PROCEDURES/SPECIFICATIONS:

Check condition.

REJECT VEHICLE IF:

Fuel tank mount(s) are cracked, loose, or bolts are missing.

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

7) Fuel tank straps

PROCEDURES/SPECIFICATIONS:

Check condition.

REJECT VEHICLE IF:

Fuel tank straps are cracked, loose, or missing.

8) Alternate Fuel Systems (LPG or CNG)

An alternate fuel system which is no longer in use must be completely removed from the vehicle.

A) Carburetion Equipment

A fuel filter is required on alternate fuel systems.

B) Container Installation

- i) Compressed or liquefied gas containers shall not be mounted in the passenger or driver's compartment.
- ii) Container valves, appurtenances and connections shall be mounted in an enclosed compartment.
- iii) Containers shall be located at least 36 inches from the entrance door and any emergency exit. Due to the smaller size of Type II school buses, space limitations may sometimes make it impossible to locate a fuel tank further than 36 inches from an exit. A Type II school bus has a gross vehicle weight rating of 10,000 pounds or less [625 ILCS 5/12-800]

A-type-ii-school-bus-has-a-gross vehicle-weight-rating-of-10,000-pounds-or less as defined in Section 12-800 of the Illinois Vehicle Equipment Law
If the original fuel tank for a Type II

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

bus was located within 36 inches from any exit, the alternate fuel container may be located in the same location as the original tank.

C) Identification

The fuel identification decal (See see Section 41.1.Illustration D E.) shall be displayed near the rear bumper and visible from the rear of the vehicle
on-the-rear-of-the-school-bus not-more-than-12-inches-above-the top-of-the-rear-bumper-and-within-39 inches-of-the-left-side. The decal shall not be placed on any black portion of the bus body.

D) Pipe and Hose Installation

- i) No fuel supply line shall pass through the driver or passenger's compartment.
- ii) The pressure relief device shall be fabricated so that in the event of stress, the pipe or adaptor will break away without impairing the function of the relief valve.
- iii) If installed, the adaptor connecting the piping system to the pressure relief device shall neither touch nor restrict any movable part of the pressure relief valve.
- iv) The relief valve discharge piping system (piping system) must not be reduced at any point from the relief valve to the point of release into the atmosphere.
- v) The piping system shall be routed to minimize sharp elbows or bends. Installation of any commercially available piping installed to meet the manufacturer's specifications is acceptable. Any fittings that restrict the flow of discharge are

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

- prohibited. From the pressure relief device adaptor to the atmosphere, the minimum inside diameter of the piping must measure at least 3/4 of an inch.
- vi) The piping system shall neither block nor hamper the operation of any window or door. The piping system shall preserve widths of passageways, aisles and emergency exits.
- vii) Every portion of the piping system shall be gas tight (except the outlet) and shall be able to withstand forces from the discharge when the relief valve is in full open position. If for any reason the discharge outlet becomes blocked, the piping system must be capable of holding the full system pressure.
- viii) To facilitate the removal of accumulated water, a drain cock shall be installed at the lowest point of the piping system. The drain must be capable of being held open manually and close automatically to prevent expelling LPG if discharged through the relief valve. A weep hole, or other opening that may result in discharged LPG flaming beneath the bus is prohibited.
- ix) The portion of the piping system that leads upward to the atmosphere shall be installed either inside the passenger compartment, on the outside of the bus, or in the body wall between the inner and outer "skins" of the bus body.
- x) Piping on the outside of the body shall be shielded below the window line to prevent "grabbing hold" or "hitching to." However, discharge piping that is located between the windshield and the vent window at the left front corner of the body need not be shielded.

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

- xi) Any portion of the piping system that is installed either inside the passenger compartment or inside the body wall shall consist of one piece originating below the bus floor and exiting outside the bus roof. Every hole where piping passes through the floor or roof shall be sealed.
- xii) The piping system must terminate above the eave lines of the bus body.
- xiii) The outlet of the piping system shall be located at least 36 inches from the air inlet or outlet of a ventilator or similar device installed on or near the roof. A "similar device" includes the fresh air intake of a heating, ventilating or air conditioning system. It does not include a side window that opens near the roof.
- xiv) A rain cap is required where the piping system exits into the atmosphere to minimize water or dirt from entering into either the relief valve or its discharge piping. Installation of any commercially available rain cap installed to meet the manufacturer's specifications is acceptable. The cap shall remain in place except when the relief valve operates. The cap shall be installed to minimize the entrance of water or dirt while the vehicle is in motion.
- xv) The discharge piping system on a special education school bus shall conform to all provisions of this Part.

REJECT VEHICLE IF:

Alternate fuel system does not meet requirements listed above.

- b) GRAB HANDLES
1) Exterior

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

PROCEDURES/SPECIFICATIONS:

At least one step grab handle shall be located on each side at front of body so as to provide easy access to windshield.

REJECT VEHICLE IF:

Exterior grab handles are missing or loose.

2) Interior

PROCEDURES/SPECIFICATIONS:

Stainless clad steel with measurements not less than 10 inches long located in unobstructed location inside doorway.

As instructed by an officer of the Department, draw a 1/2 inch hexagon nut attached to a string through the junction where the grab handle attaches to the lower stepwell.

REJECT VEHICLE IF:

Interior grab handles are missing or are not solidly attached.

Nut becomes lodged on the grab handle.
(Retrofit kit is required.)

c) HEATERS

PROCEDURES/SPECIFICATIONS:

Nameplate must identify manufacturer and heater rating capacity. Must be capable of maintaining inside temperature of 50 degrees. The heater hoses shall be supported to guard against excessive wear due to vibration and shall not interfere with or restrict the operation of any engine function. Any hose in the passenger compartment shall be protected to prevent injury from burns in the event of rupture. If heater is not protected by a seat, it must be padded.

REJECT VEHICLE IF:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Heater is missing; in poor working condition; defective hoses, supports or baffles; not firmly attached or not padded when required.

d) HOOD

PROCEDURES/SPECIFICATIONS:

Open hood and inspect safety catch and hinges for proper operation. Close hood and inspect for proper full closure. Manually inspect latches or remote control for proper operation.

REJECT VEHICLE IF:

Hood does not open or hood latches do not securely hold hood in its proper fully-closed position. Secondary or safety catch does not function properly. Hinge is broken, missing, or not attached to body.

e) HORN

PROCEDURES/SPECIFICATIONS:

At least one horn shall be provided giving an audible warning at a distance of 200 feet and shall be conveniently controlled from the operator's seated position. (Section 12-601 of the Illinois Vehicle Equipment Law)

REJECT VEHICLE IF:

Horn control is missing, defective or not audible.

(Source: Amended, 29 JAN 29 1998 22 Ill. Reg. 11889, effective)

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

c) LETTERING

1) Exterior

PROCEDURES/SPECIFICATIONS:

The body and chassis manufacturer's name, emblem, or other identification may be displayed (colorless or any color) on any unglazed surface of the bus.

AGENCY NOTE: School buses with interstate authority may display the company's name, city and state of its base and the interstate "MC" number. This lettering must be black in color.

REJECT VEHICLE IF:

Exterior lettering does not meet requirements. Lettering or decals are not distinct, required or allowed. Lettering is obstructed.

A) Front

PROCEDURES/SPECIFICATIONS:

"SCHOOL BUS" in black at least eight inches (200 mm) high placed as high as possible on body or sign attached thereto. Vehicle number assigned for identification shall be a minimum of four inches (100 mm) high and located as high as practicable. Decals are permissible permissible. All lettering must be black. (Section 12-802 of the Illinois Vehicle Equipment Law)

REJECT VEHICLE IF:

Lettering does not meet requirements. Lettering is not distinct, required or allowed. Lettering is obstructed.

B) Left

PROCEDURES/SPECIFICATIONS:

Either the owner's name or the school district number or both must be at least four inches high, approximately centered and as high as practicable below window line. (Section 12-802 of the Illinois Vehicle

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

Section 441.APPENDIX G
Compartment Instruments and Instrument Panel through Thorough Locked

a) INSTRUMENTS
AND INSTRUMENT
PANEL

PROCEDURES/SPECIFICATIONS:

Shall be equipped with the following nonglare illuminated instruments and gauges mounted for easy maintenance and repair and in such a manner that each is clearly visible to the seated driver. An indicator light instead of a pressure or temperature gauge is permissible permissible. (49 CFR 571.101)

- 1) Speedometer;
- 2) Odometer;
- 3) Fuel Gauge;
- 4) Oil Pressure Gauge;
- 5) Water Temperature Gauge;
- 6) Ammeter (voltmeter) with graduated charge and discharge indications;
- 7) High beam headlight indicator;
- 8) Directional signal indicator;
- 9) Air pressure or vacuum gauge (when air or vacuum brakes are used);
- 10) Eight light flasher indicator;
- 11) Emergency/service brake indicator.

REJECT VEHICLE IF:

Instruments or instrument panel do not operate properly; instruments are missing; inaccurate readings.

PROCEDURES/SPECIFICATIONS:

The ceiling and sidewalls shall be thermally insulated with a fire-resistant material which shall reduce the noise level and vibrations.

REJECT VEHICLE IF:

Insulation does not meet requirements.

b) INSULATION

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Equipment Law) The above required lettering must be located on one line.

If the bus is equipped with a side emergency door, it must be labeled tabetted "EMERGENCY EXIT" in letters at least two inches high directly at the top of the emergency door, or directly above, or on door glazing.

Optional: Vehicle number assigned for identification may be displayed at a minimum height of four inches (100 mm).

Decals are permissible permissable. All lettering must be black.

For buses manufactured on or after May 2, 1994, "EMERGENCY DOOR" in letters at least 1.95 inches (5 cm) high must be located at the top of, or directly above, any emergency exit door. For any emergency window exit, "EMERGENCY EXIT" must be located at the top of, or directly above, or at the bottom of the emergency window exit in letters at least 1.95 inches (5 cm) high. The labeling tabetting must be of a color that contrasts with its background. (49 CFR 571.217) (57-FR-494137-November-27-1992)

REJECT VEHICLE IF:

Lettering does not meet requirements. Lettering is not distinct, required, or allowed. Lettering is obstructed.

C) Rear

PROCEDURES/SPECIFICATIONS:

"SCHOOL BUS" in black lettering at least eight inches (200 mm) high placed as high as possible on body or sign attached thereto. (Section 12-802 of the Illinois Vehicle Equipment Law) "EMERGENCY DOOR" or "EMERGENCY EXIT" in lettering at least two inches high at top of emergency door, or directly above, or on door glazing.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

"EMERGENCY EXIT" (for buses without rear emergency door) in letters at least two inches high directly below rear emergency window, or on exit glazing. An arrow, at least 5.9 inches in length and 3/4 inch in width indicating direction each release mechanism should be turned to open door or window located within 5.9 inches of release handle, in black. Vehicle number assigned for identification shall be a minimum 4 inches (100 mm) high. Decals are permissible. All lettering must be black.

If bus uses alternate fuel (e.g., propane, CNG), vehicle must be marked with identifying decal. Such decal shall be diamond shaped with white or silver scotchlite letters one inch in height and a stroke of the brush at least 1/4 inch wide on a black background with a white or silver scotchlite border bearing either the words or letters:

"PROPANE" = If propelled by liquefied petroleum gas other than liquefied natural gas; or

"CNG" = If propelled by compressed natural gas. The sign or decal shall be maintained in good legible condition.

The alternate fuel decal shall be displayed near the rear bumper and visible from the rear of vehicle. (See see Appendix F6(a)(8) and Section 411.Illustration D.) (Section 12-704.3 of the Illinois Vehicle Equipment Law)

For buses manufactured on or after May 2, 1994, "EMERGENCY DOOR" in letters at least 1.95 inches (5 cm) high must be located at the top of, or directly above, any emergency exit door. For any emergency window exit, "EMERGENCY EXIT" must be located at the top of, or directly above, or at the bottom of the emergency window exit in letters at least 1.95 inches (5 cm) high. The labeling tabetting must be of a color that contrasts with its background. (49 CFR 571.217)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

(57-FR-49413-November-27-1992)

REJECT VEHICLE IF:

Lettering does not meet requirements.
Lettering or arrows are not distinct,
required, or allowed. Lettering is
obstructed.

Buses using alternate fuels are not properly
marked with decal. Decal is in wrong location.

D) Right

PROCEDURES/SPECIFICATIONS:

*Either the owner's name or the school district
number or both must be at least four
inches (100 mm) high, approximately centered
and as high as possible below window line.
(Section 12-802 of the Illinois Vehicle
Equipment Law) The above required lettering
must be located on one line.*

The following lettering must be at least two
inches (50 mm) high:

1) The word "CAPACITY," or abbreviation
"CAP.," and the rated passenger capacity
followed by the word "PASSENGERS,"
or the abbreviation "PASS.," shall be
displayed on the outside of the body
near the rear edge of the service
entrance.

2) Empty weight in pounds must be shown.
Empty weight is indicated by "EW."
(Section 12-802 of the Illinois Vehicle
Equipment Law)

Manufacturer's identification name or emblem
may be displayed, but not on service door
glazing. Manufacturer's name or emblem must
not interfere with required lettering.
Decals are permissible. All lettering must
be black.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

~~Optional route identification markers (numbers
or symbols) are allowed. They must be
located in either the first window or on the
bus body directly behind the service entrance
door. Route markers affixed to the bus body
must meet paint requirements and must not
obstruct any required lettering.~~

For buses manufactured on or after May 2,
1994, "EMERGENCY DOOR" in letters at least
1.95 inches (5 cm) high must be located at
the top of, or directly above, any emergency
exit door. For any emergency window exit
"EMERGENCY EXIT" must be located at the top
of, or directly above, or at the bottom of the
emergency window exit in letters at least
1.95 inches (5 cm) high. The labeling tabelling
must be of a color that contrasts with its
background. (49 CFR 571.217)
(57-FR-49413-November-27-1992)

REJECT VEHICLE IF:

Lettering does not meet requirements.
Lettering or decals are not distinct,
required, or allowed. Lettering is
obstructed.

2) Interior

A) Front

PROCEDURES/SPECIFICATIONS:

Each letter or numeral must be at least two
inches (50 mm) high and contrasting sharply
with its background. A colorless background strip
(such as white, aluminum or silver) may
be used. Decals are permitted.

On right side: Either "CAPACITY" or "CAP."
plus numerals showing rated passenger
capacity, followed by either "PASSENGER" or
"PASS."

As nearly as practicable opposite the center
of aisle, but to right of inside mirror,
either "NO STANDEES" or "NO STANDEES
PERMITTED."

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

The vehicle's length (rounded up to nearest whole foot) shall be displayed on the bulkhead clearly within the driver's view. (For example: vehicle length of 39.1 feet will be displayed as 40 feet.)

A red cross formed of five equal squares with words "FIRST-AID KIT" shall be displayed on the compartment door, or cover, if the first-aid kit is to be carried in the locked compartment.

The words "FIRE EXTINGUISHER" shall be displayed on the compartment door, or cover, if the fire extinguisher is to be carried in the locked compartment.

Exception: On a bus with chassis (incomplete vehicle) manufactured in March 1977 or earlier, "NO STANDEES" need not be opposite center of aisle and the word "PASSENGERS," or "PASS.," is optional.

REJECT VEHICLE IF:

Lettering does not meet requirements. Lettering is not distinct, required or allowed. Lettering is obstructed.

After January 1, 1999, vehicle length is not displayed properly or is absent.

B) Left

PROCEDURES/SPECIFICATIONS:

A "Stop Line" in contrasting color is required between 5.9 and 6.1 inches below the top of the window opening. The line shall be located between each window that slides downward.

If bus is equipped with a side emergency door or emergency windows which are knock-out type, they are to be labeled ~~labeled~~ "EMERGENCY EXIT" in letters at least two inches high directly below window.

An arrow indicating the direction in which to

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

move release mechanism handle(s) to open emergency exit and operating instructions shall be painted or permanently affixed within six inches of each release handle.

For buses manufactured on or after May 2, 1994, "EMERGENCY DOOR" in letters at least 1.95 inches (5 cm) high must be located at the top of, or directly above, any emergency exit door. For any emergency window exit, "EMERGENCY EXIT" must be located at the top of, or directly above, or at the bottom of the emergency window exit in letters at least 1.95 inches (5 cm) high. The labelling must be of a color that contrasts with its background. Concise operating instructions describing the motions necessary to unlatch and open the door must be located within 5.85 inches (15 cm) of the release mechanism on the inside surface of the bus. These operating instructions shall be in letters at least .39 inches (1 cm) high and of a color that contrasts with its background. (49 CFR 571.217) (57-FR-494137-November-27-1992)

REJECT VEHICLE IF:

Lettering does not meet requirements. Line or line and lettering is not distinct, required, or allowed. Lettering is obstructed.

C) Rear

PROCEDURES/SPECIFICATIONS:

"EMERGENCY DOOR" or "EMERGENCY EXIT" in letters at least two inches (50 mm) high painted or permanently affixed either directly above each emergency exit, or on top metal of exit (door or window), or on top of exit glazing. An arrow indicating the direction in which to move release mechanism handle(s) to open emergency exit and operating instructions shall be painted or permanently affixed within six inches of each release handle. All lettering and arrow(s) must contrast with background. Decals are permitted.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

For buses manufactured on or after May 2, 1994, "EMERGENCY DOOR" in letters at least 1.95 inches (5 cm) high must be located at the top of, or directly above, any emergency exit door. For any emergency window exit, "EMERGENCY EXIT" must be located at the top of, or directly above, or at the bottom of the emergency window exit in letters at least 1.95 inches (5 cm) high. The labeling tabelling must be of a color that contrasts with its background. Concise operating instructions describing the motions necessary to unlatch and open the door must be located within 5.85 inches (15 cm) of the release mechanism on the inside surface of the bus. These operating instructions shall be in letters at least .39 inches (1 cm) high and of a color that contrasts with its background. (49 CFR 571.217) (57-PR-494137-November-27-1992)

REJECT VEHICLE IF:

Lettering does not meet requirements. Lettering is not distinct, required, or allowed. Lettering is obstructed.

D) Right

PROCEDURES/SPECIFICATIONS:

A "Stop Line" in contrasting color is required between 5.9 and 6.1 inches below the top of the window opening. The line shall be located between each window that slides downward. Decals are permitted.

If emergency window is installed, "EMERGENCY EXIT" shall be displayed on or immediately below emergency window.

Instructions for emergency operation of a power operated door shall be affixed permanently on the inside of the door in letters at least .5 (one half) inch high. Decals are permitted.

Optional route identification markers (numbers or symbols) are allowed. They must be located in either the first window or-on-the bus-body directly behind the service entrance

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

door. If route identification markers are installed in permanent holder or bracket, the holder or bracket must have rounded edges or be padded.

For buses manufactured on or after May 2, 1994, "EMERGENCY DOOR" in letters at least 1.95 inches (5 cm) high must be located at the top of, or directly above, any side emergency door. For any emergency window exit "EMERGENCY EXIT" in letters at least 1.95 inches (5 cm) high must be located at the top of, or directly above, or at the bottom of the emergency window exit. The labeling tabelling must be of a color that contrasts with its background. Concise operating instructions describing the motions necessary to unlatch and open the exit must be located within 5.85 inches (15 cm) of the release mechanism on the inside surface of the bus. These instructions shall be in letters at least .39 inches (1 cm) high and of a color that contrasts with its background. (49 CFR 571.217) (57-PR-494137-November-27-1992)

REJECT VEHICLE IF:

Right interior lettering does not meet requirements. Line or line and lettering is not distinct, required, or allowed. Lettering is obstructed.

E) Ceiling

PROCEDURES/SPECIFICATIONS

For buses manufactured on or after May 2, 1994, any roof exit must be labelled "EMERGENCY EXIT" in letters at least 1.95 inches (5 cm) high, of a color that contrasts with its background. The labeling tabelling must be located on an inside surface of the exit, or within 11.7 inches (30 cm) of the roof exit opening. Concise operating instructions describing the motions necessary to unlatch and open the emergency exit shall be located within 5.85 inches (15 cm) of the release mechanism. These instructions shall be in letters at least .39 inches (1 cm) high and

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

of a color that contrasts with its background.
(49 CFR 571.217) (57-PR-494137-November-27-1992)

REJECT VEHICLE IF:

Lettering does not meet requirements.

d) LIGHTS

1) Back Up

PROCEDURES/SPECIFICATIONS:

Two white lights shall be provided. Must meet federal standards. (49 CFR 571.108)

Exception: All buses purchased prior to September 1974 are exempt; however, for any unit equipped with back up lamps, they must be operational.

REJECT VEHICLE IF:

Back-up lights do not function; illegal color; broken lens.

2) Clearance,
FrontPROCEDURES/SPECIFICATIONS:

Two clearance lights (amber) at highest and widest portions of the body. Must conform to federal standards. (49 CFR 571.108) May be combined with side marker lamp.

REJECT VEHICLE IF:

Front clearance lights do not function; improper color; broken lens.

3) Clearance,
RearPROCEDURES/SPECIFICATIONS:

Two clearance lights (red) mounted at highest and widest parts of body. Must conform to federal standards. (49 CFR 571.108)

REJECT VEHICLE IF:

Rear clearance lights do not function;

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

improper color; broken lens.

4) Identification,
FrontPROCEDURES/SPECIFICATIONS:

Three amber lights mounted at center front near top of body above "SCHOOL BUS" sign. Must conform to federal standards. (49 CFR 571.108)

REJECT VEHICLE IF:

Front cluster lights do not function properly; improper color; broken lens.

5) Identification,
RearPROCEDURES/SPECIFICATIONS:

Three red lights mounted at center rear near top of body either above or below "SCHOOL BUS" sign. Must conform to federal standards. (49 CFR 571.108)

REJECT VEHICLE IF:

Rear cluster lights do not function properly; improper color; broken lens.

6) Flashing
LightsPROCEDURES/SPECIFICATIONS:

All school buses purchased after December-31, 1975, shall be equipped with an eight light flashing signal system with two red and two amber flashing signal lamps mounted above windshield spaced no less than three feet apart and at same horizontal level. The rear of the vehicle shall be equipped with two red and two amber flashing signal lamps mounted and spaced no less than three feet apart and at same horizontal level. Minimum diameter 5 1/2 inch sealed beam. Effective December-31-1978, all school buses shall be equipped with the eight light flashing signal system described in the above paragraph. (Section 12-805 of the Illinois Vehicle Equipment Law) The red lights must be located on the outside

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Perimeters of the bus and the yellow lights must be located between the red lights and towards the center.

A separate circuit breaker and a master switch shall be provided for this signal system. When in its "off" position this master switch shall prevent the following:

- 1) Operation of the 8 lamp system;
- 2) Operation of any lamps mounted on the stop signal arm; and
- 3) Operation of any electrically controlled mechanism that would cause the stop signal arm to extend.

The controls for the eight lamp flashing signals, the stop signal arm and the service entrance door shall be arranged so as to provide for the following sequence of operations while the engine is running.

- 1) Place the alternately flashing signal system master switch in its "off" position. Close and secure the service entrance door. Actuate the alternately flashing signal system hand or foot control. The alternately flashing signal lamps of either yellow (amber) or red color shall not go on.
- 2) With the master switch "off" and the hand or foot control actuated, open the service door. The alternately flashing signals of either color shall not go on and the stop signal arm shall not extend.
- 3) Deactivate the hand or foot control. Place the alternately flashing signal system master switch in its "on" position. Close and secure the service door. Open the service door. The alternately flashing signal lamps of either color shall not go on and stop signal arm shall not extend.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 4) Close and secure the service door. Actuate the alternately flashing signal system by hand or foot control. A yellow pilot lamp in the view of the driver and the yellow alternately flashing signals shall go on.
- 5) Desecure but do not open the service door. The yellow pilot and the yellow alternately flashing signals shall go off. A red pilot lamp in the view of the driver and the red alternately flashing signals shall go on. The stop signal arm shall extend.
- 6) Fully open the service door. The red pilot and red signals shall remain on and the stop arm shall remain extended.
- 7) Close but do not secure the service door. The red pilot and red signals shall remain on and the stop arm shall remain extended.
- 8) Open the service door. The red pilot and red signals shall remain on and the stop arm remain extended.
- 9) Close and secure the service door. The red pilot and red signals shall go off and the stop arm shall retract.
- 10) Open the service door. Alternately flashing signals of either color shall not go on and the stop arm shall not extend.

REJECT VEHICLE IF:

Flashing lights do not function properly; broken lens or improper lens color. Pilot lights do not function.

PROCEDURES/SPECIFICATIONS:

7) Headlights

Shall have at least two headlamps with at least one mounted on each side of the front of the bus. Lamp body must be securely attached.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Lenses, reflectors, bulbs, etc., must be in good condition, properly aimed and fill required intensity. Check for bulb burn out. Verify high and low beams are functioning. Shall conform to federal standards. [49 CFR 571.108]

REJECT VEHICLE IF:

Headlights do not meet requirements. High/Low beams do not function.

8) Interior

PROCEDURES/SPECIFICATIONS:

Adequate to illuminate aisles, step well, and emergency passageways.

REJECT VEHICLE IF:

Interior lights do not provide adequate lighting; cracked or broken lenses; improper color.

9) License Plate

PROCEDURES/SPECIFICATIONS:

Adequate white light to illuminate license plate. [49 CFR 571.108] May be combined with one of the tail lights.

REJECT VEHICLE IF:

License plate light does not provide adequate lighting; cracked or broken lenses; improper color.

10) Parking

Lights

PROCEDURES/SPECIFICATIONS:

Shall be one lamp on each side; white or amber color. [49 CFR 571.108]

All buses 80 or more inches in overall width which are equipped with side marker lamps, clearance lamps, and intermediate side marker lamps are exempt from having parking

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Lights. However, if vehicle is equipped with parking lights, they must be operational. (Section 12-202 of the Illinois Vehicle Equipment Law)

REJECT VEHICLE IF:

Parking lights do not meet requirements; improper color; cracked or broken lenses.

11) Sidemarkers,
LeftPROCEDURES/SPECIFICATIONS:

Two lamps: one amber at front and one red at rear, mounted as high as practicable. Shall conform to federal standards. [49 CFR 571.108]

Exception: All buses purchased prior to September 1974 are exempt.

REJECT VEHICLE IF:

Left marker lights do not meet requirements; does not function properly; improper color; cracked or broken lenses.

12) Sidemarkers,
RightPROCEDURES/SPECIFICATIONS:

Two lamps: one amber at front and one red at rear, mounted as high as practicable. Shall conform to federal standards. [49 CFR 571.108]

Exception: All buses purchased prior to September 1974 are exempt.

REJECT VEHICLE IF:

Right marker lights do not meet requirements; improper color; cracked or broken lenses.

13) Step Well

PROCEDURES/SPECIFICATIONS:

At least the nosings of the service entrance steps and the floor around the stepwell shall

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

be automatically illuminated with white light when the ignition is on and the service entrance door is open.

No lamp shall be installed so as to shine directly into the eyes of a pupil moving through the service entrance and looking at the service steps.

Exception: On a bus with chassis (incomplete vehicle) manufactured in March 1977 or earlier, a stepwell light that does not illuminate all the step nosings or does not illuminate the floor around the service entranceway may be used.

REJECT VEHICLE IF:

Step well light does not meet requirements; improper color; cracked or broken lenses.

14) Stop

PROCEDURES/SPECIFICATIONS:

Two red lights mounted at same height and as high as practicable below window line. Seven inch minimum diameter or 19 square inches. Not less than three feet apart laterally. Must conform to federal standards. [49 CFR 571.108]

REJECT VEHICLE IF:

Stop lights do not meet requirements; improper color; cracked or broken lenses; do not function properly.

15) Strobe
(optional)PROCEDURES/SPECIFICATIONS:

If installed, lamp must comply with following requirements:

- 1) One per bus;
- 2) Shall emit white or bluish/white light;
- 3) Shall be visible from any direction;

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 4) Shall flash 60 to 120 times per minute;
- 5) Shall be visible in normal sunlight;
- 6) Mounted at or behind center of rooftop and equal distance from each side.
(Section 12-815 of the Illinois Vehicle Equipment Law)

Distance from rear will be calculated by measuring height of filament and multiplying same by 30 inches. (i.e., Filament height x 30 = distance from rear of bus where lamp is to be located)

REJECT VEHICLE IF:

If installed, strobe light does not meet installation requirements; does not function properly; improper color; cracked or broken lenses.

Shielding is present.

PROCEDURES/SPECIFICATIONS:

Two red lights mounted with centers not less than 40 inches nor more than 50 inches from surface on which vehicle stands. Must conform to federal standards. [49 CFR 571.108]

REJECT VEHICLE IF:

Tail lights do not meet requirements; do not function properly; improper color; cracked or broken lenses.

PROCEDURES/SPECIFICATIONS:

"Armored" push-mounted-"armored" type amber clearance lamp mounted behind driver's seat at seat level and rub rail height. Functions with regular turn signal.

16) Tail

- 17) Turn
Signal,
Left
(armored)

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

Exception: All buses purchased prior to September 1974 are exempt from having left armored turn signals.

Exception: Buses with capacity rating of less than 33 passengers are exempt. Buses manufactured in August 1974 or earlier are exempt. Buses that measure less than 80 inches wide or 20 feet long are exempt.

REJECT VEHICLE IF:

Left turn signal light does not meet requirements; does not function properly; improper color; cracked or broken lenses.

- 18) Turn
Signal,
Right
(armored)

PROCEDURES/SPECIFICATIONS:

"Armored" flush-mounted "armored" type amber clearance lamp mounted at approximately seat level and rub rail height just to rear of service door. Functions with regular turn signal lamps.

Exception: All buses purchased prior to September 1974 are exempt from having right armored turn signals.

Exception: Buses with capacity rating of less than 33 passengers are exempt. Buses manufactured in August 1974 or earlier are exempt. Buses that measure less than 80 inches wide or 20 feet long are exempt.

REJECT VEHICLE IF:

Right turn signal light does not meet requirements; does not function properly; improper color; cracked or broken lenses.

- 19) Turn
Signal,
Front

PROCEDURES/SPECIFICATIONS:

One amber lamp at least four inches in

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

diameter, or 12 1/2 square inches, located on each side at or near the front. They shall be located at the same height and as far apart as practicable. Lamps must conform to federal standards. [49 CFR 571.108]

Operate turn signals and four-way warning hazards to check performance of front and rear lights.

REJECT VEHICLE IF:

Front turn signal lights do not meet requirements; do not function properly; improper color; cracked or broken lenses.

Four-way warning hazards do not operate properly.

- 20) Turn
Signal,
Rear

PROCEDURES/SPECIFICATIONS:

Chassis manufactured after March 31, 1977, must have two 7 inch diameter, or 19 square inch, amber lenses mounted on the rear as far apart and as high as practicable below rear window. [49 CFR 571.108]

Exception: Chassis manufactured prior to April 1, 1977, may have yellow or red turn signals with arrow lenses. [49 CFR 571.108]

REJECT VEHICLE IF:

Rear turn signal lights do not meet requirements; improper color; do not function properly; cracked or broken lenses.

- e) LOCKED
COMPARTMENT

PROCEDURES/SPECIFICATIONS:

Fire extinguisher, first-aid kit, and warning devices may be stored either in a closed, unlocked compartment or under lock and key, provided the locking device is connected with an automatic warning signal that will alert driver when compartment is locked. The

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

automatic alarm shall be both audible and visible to the seated driver. The alarm shall alert the driver when the engine is running and the compartment is locked and cannot be readily opened without using a tool, key, or combination. An alarm cut-off or "squench" control is prohibited.

Each safety item inside the compartment shall be named on the outside of the compartment cover, or door. In addition, a RED CROSS formed of five equal squares shall be displayed on the cover when the first aid kit is inside the compartment.

Exception: A bus with chassis manufactured in March 1977 or earlier need not have a visible alarm.

REJECT VEHICLE IF:

Locked compartment is not readily accessible to driver; lettering or identification missing; alarm does not function properly when compartment is locked and vehicle is running.

(Source: Amended at 22 Ill. Reg. 11889, effective

JUN 29 1998)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Section 441.APPENDIX H Mirrors through through Rub Rails

a) MIRRORS

PROCEDURES/SPECIFICATIONS:

Every required mirror shall be of reflecting material protected from abrasion, scratching, and corrosion. Mirror shall be firmly installed on stable supports so as to give a clear, stable, reflected view.

Mirrors must meet all requirements of 49 CFR 571.111 to provide the required field of view. Mirrors shall be adjustable so as to give and maintain its required field of view.

Convex crossover mirrors can be combined with either the right or left side safety mirrors provided the convex mirror meets the field of view and size requirements established in this subsection or in 49 CFR 571.111.

REJECT VEHICLE IF:

Mirrors do not meet requirements; defective; excessively clouded; not adjustable; not securely attached; cracked or broken glass.

1) Exterior

A) Rear View Driving

PROCEDURES/SPECIFICATIONS:

Shall be mounted outside on the left and right sides of the bus. Must give seated driver a view to the rear along each side of the bus. Must be at least 50 square inches of usable flat rectangular reflecting surface on each side. (49 CFR 571.111)

If the rear view driving mirror does not provide the required field of view, a convex driving mirror must be installed to expand the driving view to the rear. However, the usable flat reflecting surface must be

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

rectangular and must maintain at least 50 square inches.

REJECT VEHICLE IF:

Rear view driving mirror does not meet requirements; defective; excessively clouded; not adjustable; not securely attached; cracked or broken glass.

B) Right Side Safety

PROCEDURES/SPECIFICATIONS:

An outside convex mirror, either alone or in combination with the crossover mirror system, shall give the seated driver a view of the roadway along the right side of the bus between the most forward surface of the right front tire and the rear of the rear bumper. The projected reflecting surface of this convex mirror shall be at least 40 square inches (7 1/8 inches diameter if a circle).

Extra-wide-angle convex mirror heads are permissible on right front corner only.

Exception: A right safety mirror is optional on a bus manufactured in August 1974 or earlier.

REJECT VEHICLE IF:

Right side safety mirror does not meet requirements; defective; excessively clouded; not-adjustable; not securely attached; cracked or broken glass.

C) Left Side Safety (Optional)

PROCEDURES/SPECIFICATIONS:

A convex mirror is required if the left rear view driving mirror system does not give the seated driver a reflected view of the roadway

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

along the left side of the bus between the front edge of the driver's seat (in most forward position) and the rear of the rear bumper. The convex mirror shall be installed so that either alone or in combination with the rear view driving mirror gives the seated driver the proper view.

Exception: A left safety mirror is optional on a bus with chassis manufactured in March 1977 or earlier.

REJECT VEHICLE IF:

Left side safety mirror does not meet requirements; defective; excessively clouded; not-adjustable; not securely attached; cracked or broken glass.

D) Crossover

PROCEDURES/SPECIFICATIONS:

An outside convex mirror shall give the seated driver a view of the front bumper and the area of roadway in front of the bus. The projected reflecting surface of this mirror shall be at least 40 square inches (7 1/8 inch diameter if a circle). (49 CFR 571.111)

Exception: If the seated driver of a forward control bus has a direct view of the front bumper and the area of roadway in front of the bus, a crossover mirror is optional.

REJECT VEHICLE IF:

Crossover mirror does not meet requirements; defective; excessively clouded; not adjustable; not securely attached; cracked or broken glass.

2) Interior

PROCEDURES/SPECIFICATIONS:

Clear view safety glass mirror, minimum 6

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

inches x 30 inches overall; framed with rounded and padded corners and edges. It shall afford good view of the bus interior and portions of the roadway to the rear.

Exception: All buses manufactured prior to September 1974 are exempt from padding on the mirror.

REJECT VEHICLE IF:

Interior mirror does not meet requirements; defective; excessively clouded; not adjustable; not securely attached; cracked or broken glass.

b) PAINT
REQUIREMENTSPROCEDURES/SPECIFICATIONS:

The exterior of the body, excluding the required rails, shall be painted a uniform color, National School Bus Glossy Yellow. The front and rear bumpers, required rub rails and wheels shall be black. Additional rub rails may either be painted black or yellow. Grilles and hub caps may be a bright finish (e.g., chrome, anodized aluminum, etc.). Retaining rings may be gray or aluminum. Manufacturer's name or emblem may be any color but must not interfere with required lettering, numbering, or arrows. Roofs may be white. (Section 12-801 of the Illinois Vehicle Equipment Law)

For buses manufactured on or after May 2, 1994, each opening for a required emergency exit must be outlined around its outside perimeter with a minimum 1 inch (2.54 cm.) wide yellow retroreflective tape. This yellow retroreflective tape must be on the exterior surface of the bus. Required yellow retroreflective tape can be located on the rear bumper provided the space between the top of the bumper and bottom of the door is not adequate to accommodate the tape. (49 CFR 571.217)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

(57-PR-494137--November-27-1992)

Optional: A white roof may extend only to within 6 inches above the drip rails on the sides of the body. The front and rear roof caps shall remain National School Bus Glossy Yellow.

Optional: Black areas around flashers are permitted, but must not interfere with "SCHOOL BUS" lettering.

Optional: ReflectORIZED tape is permitted provided it reflects the same color that it is applied to and is not located on any bumper unless the bus was manufactured on or after May 2, 1994 (see paragraph above).

Exception: Fenders on buses manufactured prior to January 1976 may be painted black. (Section 12-801 of the Illinois Vehicle Equipment Law)

Exception: Hoods may be lusterless black or lusterless school bus yellow.

REJECT VEHICLE IF:

Paint does not meet color requirements or is in poor condition (i.e., faded, peeling or rusted).

Optional black area around flashers interferes with required lettering.

Required or optional Optional reflectORIZED tape does not meet color requirements or is located on the bumper.

PROCEDURE/SPECIFICATIONS:

c) PROJECTIONS

1) Exterior

Entire rear and bumper area of bus must be nonhitchable.

AGENCY NOTE:

"Nonhitchable" is defined as the rear of the bus being designed and maintained to prevent or discourage riding or grasping rear of bus

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

so as to "hitch" rides.

REJECT VEHICLE IF:

Projections do not comply with nonhitchable requirements.

PROCEDURES/SPECIFICATIONS:

2) Interior

Interior shall be free of all dangerous projections.

Optional equipment (e.g., video camera) that is located in the bulkhead area of the bus and not flush with the interior walls must meet the following requirements:

- 1) Must not interfere with occupants entering or exiting the bus.
- 2) Must not be located in driver's head impact zone.
- 3) Must not obstruct required lettering.

Additional projections (e.g., external speakers, air conditioners) located within 59 inches from the floor in-the-head-impact-zone shall be padded to prevent injury. This includes inner lining of ceiling and walls. Installation of book racks is not permissible.

Exception: Buses Alt-buses purchased prior to September 1974 may be equipped with book racks. However, if book racks are present, they shall be above side windows and shall not extend forward of the front seat or across or above the emergency door. Racks must be free of projections likely to cause injury.

AGENCY NOTE:

See RADIO NOISE for additional requirements.

REJECT VEHICLE IF:

Optional equipment in bulkhead does not meet requirements.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Remaining projections are not padded (e.g., external speakers). Book racks are present.

Flush mounted speakers are exempt from padding requirements.

For buses purchased prior to September 1974, book racks do not meet requirements.

PROCEDURES/SPECIFICATIONS:

Radio/stereo speakers must be located at least four feet behind the rearmost position of the driver's seat. Any speaker already located in the prohibited area must be permanently deactivated.

REJECT VEHICLE IF:

After January 1, 1999, speakers are located in a prohibited area or are not deactivated.

Two-way communication radios are allowed.

PROCEDURES/SPECIFICATIONS:

Two yellow rigid or sheet type (tape) front reflex reflectors shall be attached securely and as far forward as practicable. (Section 12-202 of the Illinois Vehicle Equipment Law) They shall be located between 15 and 60 inches above the roadway at either fender, cowl, or body and installed so as to mark the outer edge of the maximum width of the bus. No part of the required reflecting material may be obscured by a lamp, mirror, bracket, or any other portion of the bus. No part of the required reflecting material may be more than 11.8 inches (300 mm) inboard of the outer edge of the nearest rub rail (12 inches on a bus with chassis manufactured in March 1977 or earlier). The reflector may be any shape (e.g., square, rectangle, circle, oval, etc.). A rigid type reflex reflector may be any size if permanently marked either DOT, SAE A, or SAE J

AGENCY NOTE:ed) REFLECTORS

- 1) Front

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

594; otherwise, it shall display at least seven square inches of reflecting material (about 3 inch diameter if a solid circle).

A sheet type (tape) reflex reflector may conform to the surface on which it is installed but its forward projected reflecting area shall be at least eight square inches.

REJECT VEHICLE IF:

Missing or damaged reflective material; not located or positioned as required.

2) Left Side

PROCEDURES/SPECIFICATIONS:

One amber at or near the front and one red at or near the rear. Mounted at a height not less than 15 inches and not more than 60 inches above the surface of the road. On sides of buses 20 feet or more in length, one amber as near center as practicable must also be provided. (Section 12-202 of the Illinois Vehicle Equipment Law) Minimum three inches in diameter.

REJECT VEHICLE IF:

Missing or damaged reflective material; not located or positioned as required.

3) Right Side

PROCEDURES/SPECIFICATIONS:

One amber at or near the front and one red at or near the rear. Mounted at a height not less than 15 inches and not more than 60 inches above the surface of the road. On sides of buses 20 feet or more in length, one amber as near center as practicable must also be provided. (Section 12-202 of the Illinois Vehicle Equipment Law) Minimum three inches in diameter.

REJECT VEHICLE IF:

Missing or damaged reflective material; not

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

located or positioned as required.

Two red reflectors on rear body within 12 inches of lower right and lower left corners. (Section 12-202 of the Illinois Vehicle Equipment Law) Minimum three inches in diameter.

REJECT VEHICLE IF:

Missing or damaged reflective material; not located or positioned as required.

f) RUB RAILSPROCEDURES/SPECIFICATIONS:

There shall be one rub rail located approximately at seat level which shall extend from the rear of the service entrance completely around the bus body without interruption, except at functioning doors or a rear engine compartment, to a point of curvature near the front of the body on the left side.

There shall be one rub rail on each side located approximately at the floor line which shall extend over the same longitudinal distance as the rub rail located at the seat level.

More than two rub rails may be installed on sides and rear of bus.

Rub rails of longitudinally corrugated or ribbed steel at least 3.9 inches (100 mm) wide shall be fixed on the outside of the bus.

Exceptions:

- 1) Rub rail need not extend across wheel housing.
- 2) Rub rail may terminate at the point of curvature at the right and left rear corners of the body.

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

REJECT VEHICLE IF:

Rub rails are missing; not firmly attached;
incorrect color; or incorrect number of rails.

(Source: Amended at 22 Ill. Reg. 11880, effective
3-1-69)

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

Section 441.APPENDIX I Seat Belt, Driver's through Belts--Through Steps,
Entrance

a) SEAT BELT, DRIVER'S SEAT-BELTS

PROCEDURES/SPECIFICATIONS:

Must be installed on driver's seat. (Section 12-807 of the Illinois Vehicle Equipment Law) Belt material, buckle, tongue, etc. shall remain above floor when not in use. If all retractors are installed, they shall be the an automatic locking type.

Optional--Passenger-seats-may-be-equipped with-adjustable-seat-belts:
the-securement-of-these-belts-must conform-to-49-CFR-571-222--At-all-times,
each-seat-belt-shall-be-readily-available-for quick-and-easy-use--All-retractors-installed shall-beautomatic-locking-type-
Each-belt-assembly-shall-be-clean.

Exception--On-a-bus-manufactured-in-August 1974-or-earlier--a-retractor-must-be installed; however--the-belt-need-not-remain above-floor-but-must-not-be-excessively-dirty-

REJECT VEHICLE IF:

Driver's seat belt is dirty, frayed, torn, cracked or broken or if retractor or buckle does not operate properly.

Optional-belts-are-not-secured--not adjustable--cracked--broken--frayed--torn-or dirty-

b) SEAT,
DRIVER'S

PROCEDURES/SPECIFICATIONS:

The driver's seat shall be rigidly positioned and shall afford vertical, forward and backward adjustments of not less than 3.9 inches (100 mm) without the use of a tool or non-attached device. The shortest distance between the steering wheel and the back rest of the operator's seat shall be no

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

height-

A minimum of 36 inches of headroom for the sitting position above the top of the undeprassed cushion line of all seats shall be provided. Measurement shall be made vertically not more than 7 inches from the side wall at cushion height and at the front and rear center of cushion.

Seat backs of similar size shall be of the same width at the top and of the same height from the floor and shall slant at the same angle with the floor.

Buses manufactured after June 30, 1987, shall be equipped with 28 inch seat backs. (Section 12-807.1 of the Illinois Vehicle Equipment Law) Measure front of seat back from the top down to a point where the seat back meets the seat cushion. This measurement must be at least 28 inches.

Buses-manufactured-after-December-31-1987, shall-have-28-inch-guard-barriers.

All buses manufactured during and after September 1974 shall be equipped with energy absorbing padding on all exposed top and side rails. The side rails shall be padded in such a manner to retain the 12 inch aisle (15 inches at two inches below top of seat back for buses manufactured after June 30, 1987). On the rear of a seatback, the padding shall extend from the top of the seat back to the top level of the seat cushion. Seat padding and covering shall be of fire resistant material. Padding and covering shall be in good condition (i.e., free from holes and tears). Seat cushions shall be securely fastened to the seat frame.

Optional: The rear-most seats may be exempt from seatback padding requirement.

Exception: All buses manufactured prior to September 1974 are exempt from padding on top and side rails and seat back to cushion level.

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

less than 11 inches (280 mm).

Seat padding and covering shall be in good condition, free from holes and tears. Seat cushions shall be securely fastened to the seat frame.

REJECT VEHICLE IF:

Driver's seat is not securely anchored to floor; in poor condition; adjustment mechanism does not function properly.

c) SEAT,
PASSENGER

PROCEDURES/SPECIFICATIONS:

All seats shall have a minimum front to rear depth of 14 inches.

In determining seating capacity of a bus, individual seating width shall be 13 inches where 3-3 (three pupils on both sides of aisle) seating plan is used and 15 inches where 3-2 (three pupils on one side of aisle and two pupils on other side of aisle) plan is used. (49 CFR 571.222)

All seats shall be forward facing and shall be securely fastened to that part or parts of the body which support them. No jump or portable seats are allowed (does not include child restraint systems).

The forward most seat on the right side of the bus shall be located so as not to interfere with the driver's vision and not be farther forward than the rear of the driver's seat when adjusted to its rear-most position.

The seat spacing shall be no more than 24 inches, measured from the seating reference point to the seat back or guard barrier in front of the seat. (49 CFR 571.222)

The distance-between-the-rear-most-position-of-the-driver's-seat-and-the-front-face-of-the-seat-back-of-the-forward-most-seat-on-the-left-side-shall-not-be-less-than-24-inches-measured-at-cushion

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

A flip-up seat may be located only adjacent to any side emergency door. For buses manufactured on or after September 1, 1994, the flip-up seat must conform to the following:

- 1) The seat must be designed so that, when in the folded position, the seat cushion is flat against the seat back to prevent a child's limb from becoming lodged between the seat cushion and seat back.
- 2) The seat must be designed to discourage a child from standing on the seat cushion when in the folded position.
- 3) The working mechanism under the seat must be covered to eliminate any tripping hazard.
- 4) All sharp metal edges on the seat must be padded to prevent any snagging hazard.

- 5) ~~No portion of a seat frame or seat bottom may extend past door opening.~~

- 56) No portion of the door latch mechanism can be obstructed by a seat.

- 57) There must be at least 11.7 inches (30 cm) measured from the door opening to the seat back in front. (49 CFR 571.217) ~~457-PR 49437-November-27-199277-es-amended-at-59-PR 229977-May-47-19947~~

REJECT VEHICLE IF:

Passenger seats are not firmly attached to body; broken frame; cushions not firmly attached; padding and covering not fire resistant. Padding or covering is loose, in poor condition, or missing; seats are torn or have holes; minimum seat dimensions or seat spacing is not in compliance.

For buses manufactured after June 30, 1987, seat back height does not meet requirements.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

d) STEERING SYSTEM

- 1) Exterior

- A) King Pins

PROCEDURES/SPECIFICATIONS:

Raise vehicle so as to unload kingpins (brakes should be applied to eliminate wheel bearing looseness). Either grasp wheel at top and bottom or use a bar for leverage. Attempt to rock wheel in and out. Check movement at extreme top or bottom of tire. If movement exists, place a dial indicator, tape measure, or a fixed device at the wheel and measure amount of movement.

Place leverage bar under tire. Raise bar to check for vertical movement between spindle and support axle.

REJECT VEHICLE IF:

Wheel bearing movement exceeds 1/4 inch; or kingpin movement exceeds:

Wheel size	Max allowed
16" or less	1/4"
16.1" to 18"	3/8"
over 18"	1/2"

- B) Linkage

PROCEDURES/SPECIFICATIONS:

For buses with single "I" beam or tube type front axle, hoist bus under axle. For buses with twin "I" beam type front axles or with "A frame" control arms, each axle or arm must be hoisted independently so as to load the ball joints. Grasp front and rear of tire and attempt to shake assembly right and left to determine linkage looseness. Measure movement of wheel.

Inspect for damage to or looseness in the following linkage components:

- i)++ Ball Joints

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- ii)2† Cotter Pins
- iii)3† Drag Link
- iv)4† Idler Arm
- v)5† Pitman Arm
- vi)6† Steering Box
- vii)7† Tie Rod
- viii)8† Tie Rod Ends

REJECT VEHICLE IF:

Measurement is found to be in excess of:

Rim Diameter	Maximum Allowable Movement
16" or less	1/4"
17" and 18"	3/8"
over 18"	1/2"

Any linkage component is bent; welded; loose; insecurely mounted or missing.

C) Power
Steering

PROCEDURES/SPECIFICATIONS:

Manually and visually inspect:

- i)1† Belts
- ii)2† Cylinders
- iii)3† Fluid Level
- iv)4† Hoses
- v)5† Mounting Brackets
- vi)6† Power Assist
- vii)7† Pump

REJECT VEHICLE IF:

Steering components are:

- i)1† Loose, frayed, cracked, missing; incorrect belts
- ii)2† Loose and/or leaking
- iii)3† Low fluid level
- iv)4† Cracked, leaking, rubbed by moving parts
- v)5† Cracked, loose, or broken
- vi)6† No assist is evident
- vii)7† Loose, leaking.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- D) Toe-In/
Toe-Out

PROCEDURES/SPECIFICATIONS:

With wheels held in a straight ahead position, drive vehicle slowly over the approved drive-on side slip indicator.

Excessive toe-in or toe-out is a general indication that complete check should be made of all front wheel alignment factors (caster, camber, steering axis inclination).

REJECT VEHICLE IF:

More than 30 feet per mile on the approved side slip indicator.

- E) Wheel
Bearings

PROCEDURES/SPECIFICATIONS:

With the front end of the vehicle lifted so as to load any ball joints, grasp the front tire top and bottom, rock it in and out. Record movement. To verify that any looseness detected is in the wheel bearing, notice the relative movement between the brake drum or disc and the backing plate or splash shield.

AGENCY NOTE:
Wheel bearing play can be eliminated by applying service brakes.

REJECT VEHICLE IF:

Relative movement between drum and backing plate, measured at tire, is 1/4 inch or more.

- 2) Interior

- A) Column

PROCEDURES/SPECIFICATIONS:

Inspect to determine that column support bracket is properly tightened and all bolts are present.

REJECT VEHICLE IF:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Column support bracket is not properly tightened or bolts are missing.

B) Lash

PROCEDURES/SPECIFICATIONS:

With road wheels in straight ahead position, turn steering wheel until a turning movement can be observed at the left road wheel. Slowly reverse steering wheel motion and measure lash.

REJECT VEHICLE IF:

Lash exceeds following acceptable limits:

Steering wheel maximum diameter (inches)	Acceptable lash (inches) measured at maximum circumference
16 or less	2
18	2 1/4
20	2 1/2
22	2 3/4

C) Shaft

PROCEDURES/SPECIFICATIONS:

Grasp steering wheel with both hands and attempt to move shaft up and down.

REJECT VEHICLE IF:

Steering shaft moves up and down.

AGENCY NOTE:

Steering shafts on International-Navistar vehicles will move up and down but must be within manufacturer's tolerances.

D) Steering Wheel

PROCEDURES/SPECIFICATIONS:

Inspect steering wheel condition.

REJECT VEHICLE IF:

Steering wheel is damaged. Any spokes are missing or reinforcement ring is exposed.

E) Travel

PROCEDURES/SPECIFICATIONS:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Turn steering wheel through a full right and left turn checking for binding, jamming and complete travel left and right.

REJECT VEHICLE IF:

Binding or jamming is present. Does not complete full turn from left to right. Tire rubs on fender or frame during turn.

e) STEPS, ENTRANCE

PROCEDURES/SPECIFICATIONS:

Steps shall be enclosed and shall not protrude beyond side body line. Surface shall be of nonskid material with 1 1/2 to 3 inch white nosing as part of the nonskid material. Riser of upper step not more than 15 inches in height. When more than two steps are used, risers must be approximately of equal height, except when floor is plywood over steel. (Increase by thickness of plywood.)

REJECT VEHICLE IF:

Steps or risers are not solid. Steps, risers or nonskid material covering is missing, loose, or not in good condition. White nosing is missing or in poor condition.

(Source: Amended at 22 Ill. Reg. 1.030, effective JUN 29 1986)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Section 441. APPENDIX J Stop Signal Arm Panel through Trash Container
(Optional) through Tow-Heelsa) STOP SIGNAL ARM
PANEL

PROCEDURES/SPECIFICATIONS:

A stop signal arm panel must be installed on the left side of the bus and may be operated either manually or mechanically. Decals may be used in lieu of painting.

Buses manufactured on or after September 1, 1992 must be equipped with an octagon-shaped semaphore which meet the requirements listed below under "Octagon."

Buses manufactured prior to September 1, 1992 may either be equipped with an octagon-shaped semaphore which meets the requirements listed below under "Octagon" or a hexagon shaped semaphore which meets the requirements listed below under "Hexagon."

Octagon - The arm shall be an octagon-shaped semaphore which measures at least 450 mm x 450 mm (17.72 inches x 17.72 inches) in diameter. The arm shall be red on both sides with a white border at least 12 mm (.47 inches) wide on both sides. The arm shall have the word "STOP" displayed in white uppercase letters on both sides. The letters shall be at least 150 mm (5.9 inches) in height and have a stroke width of at least 20 mm (.79 inches).

The octagon-shaped stop signal arm shall comply with either (a)(1) or (2)(b) below:

- 1)a) The entire surface of both sides of the arm can be reflectorized to meet 49 CFR 571.131; or
- 2)b) Each side of the arm shall have at least two red lamps centered on the vertical centerline of the stop arm. One lamp shall be located at the extreme top of the arm and the other at its extreme bottom. The lamps shall light and flash

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

alternately when stop arm is extended and likewise turn off and stop flashing when arm is closed. (49 CFR 571.131) (See Section 441. Illustration A for examples.)

Hexagon - The arm shall be a hexagon shaped semaphore approximately 18 inches wide and 18 inches long and of 16 gauge metal. The stop arm signal shall have the "STOP" painted on both sides in white letters at least six inches high with a brush stroke approximately 7/8 inch wide. The word "STOP" shall be painted on a panel with red background of approximately 8 inches by 16 inches. Remaining area of stop arm blade is to be painted white with a band of white border at least 1/2 inch wide painted from and rear on both sides as contrast. White portion of stop arm signal shall be reflectorized or shall have double-faced lamps with red lens approximately four inches in diameter located in the top and bottommost position of the blade. These lamps shall light and flash alternately when stop arm is extended and likewise turn off and stop flashing when arm is closed. (Section 12-803 of the Illinois Vehicle Equipment Law) (See Section 441. Illustration A for examples.)

Optional: Strobe lamps are acceptable on stop signal arm panels.

Optional: Additional stop signal arm panels must be located on the left side of the bus. Additional panels must operate in conjunction with the required panel and meet all stop signal arm panel requirements except as follows. The additional panel must not contain any lights, marking or reflective material on the front side of the panel. The additional panel must be located in the rear half of the bus adjacent to the rearmost window.

REJECT VEHICLE IF:

Stop signal arm panel is in poor condition (i.e., faded, peeling, or rusted); lights do not

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

operate properly (if installed); is not securely attached; is not operating properly; does not meet requirements; is missing.

b) STORAGE
COMPARTMENT
(optional)

PROCEDURES/SPECIFICATIONS:

Covered, fire-resistant container securely fastened of adequate strength and capacity for tire chains and tools for minor emergency repairs.

REJECT VEHICLE IF:

If installed, does not meet requirements.

c) SUN VISOR

PROCEDURES/SPECIFICATIONS:

Interior, adjustable, transparent, not less than 6 inches by 30 inches, installed above windshield. Must not interfere with view of interior rear view mirror.

Exemption: Buses purchased prior to August 1967 are exempt from having a transparent sun shield.

REJECT VEHICLE IF:

Sun visor does not meet requirements.

d) SUSPENSION

1) Shocks

PROCEDURES/SPECIFICATIONS:

Bus shall be equipped with front and rear double-acting shock absorbers compatible with manufacturer's rated axle capacity.

With vehicle on a hoist or jacked up, visually inspect shock absorbers for excessive leakage, looseness of mounting, brackets, and bolts.

Physically grab upper and lower portion of shock inspecting for looseness in rubber bushing, mounting brackets or bolts.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

REJECT VEHICLE IF:

Shocks are missing, broken, or have severe leakage (not slight dampness) occurs. Mounting bolts or mounts are broken or loose, or rubber bushing is partially or completely missing.

PROCEDURES/SPECIFICATIONS:

Visually inspect:

- i)1) Spring
- ii)2) Control arms
- iii)3) Torque arms (rear)

REJECT VEHICLE IF:

Coil is missing, disconnected, broken, loose bushings, welded or damaged.

PROCEDURES/SPECIFICATIONS:

With use of a pry bar and using frame as a pivot, attempt to pry front and rear spring attachments and check for movement. Front of vehicle must be jacked up on chassis for checking front suspension. Visually inspect:

- i)1) Springs
- ii)2) Shackles
- iii)3) Hangers
- iv)4) U-bolts
- v)5) Center bolts
- vi)6) Bushings or pivot

REJECT VEHICLE IF:

Springs are missing or broken. Shackles or "U" bolts worn or loose. Center bolt in springs sheared or broken. Steering stops allow tire to rub on frame or metal. Any leaves are cracked or missing. Any shackle, shackle pins, hangers, or "U" bolts are worn, loose, or missing.

- C) Torsion
Bar (Stabilizer)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Bar)

PROCEDURES/SPECIFICATIONS:

Visually inspect:

- i)1† Torsion bar
- ii)2† Mounting brackets
- iii)3† Control arms
- iv)4† Torque arms (if applicable - rear)
- v)5† Stabilizer bar(s) (if applicable)

REJECT VEHICLE IF:

Torsion bar is missing, disconnected, broken, loose, welded, damaged.

e) TOW HOOKS
(optional)

1) Front

PROCEDURES/SPECIFICATIONS:

A front tow hook must not extend beyond the front of the front bumper. Each front tow hook not fastened securely to the chassis frame shall be connected to the frame by suitable braces.

REJECT VEHICLE IF:

Tow hook(s) extend beyond bumper; not securely attached.

2) Rear

PROCEDURES/SPECIFICATIONS:

Any tow hook(s) installed on the rear shall be attached or braced to the chassis frame or to an equivalent structural member of an integral type bus. A tow hook must not extend beyond the rear face of the rear bumper.

REJECT VEHICLE IF:

Tow hook(s) extend beyond bumper; not securely attached.

f) TRASH CONTAINER
(optional)

PROCEDURES/SPECIFICATIONS:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

A trash container may be present. If present, it must be securely stored in the vehicle and must not obstruct an aisle.

REJECT VEHICLE IF:

Optional trash container does not meet requirements.

(Source: Amended at 22 Ill. Reg. 2.1.1, effective 10/1/83)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Section 441.APPENDIX K Undercoating through ~~where~~ Windshield Wipers

a) UNDERCOATING

PROCEDURES/SPECIFICATIONS:

Fire resistant undercoating material applied to entire underside of body, front fenders, wheel wells, floor members, and side panels below floor level. Non-metallic parts need not be coated.

REJECT VEHICLE IF:

Undercoating does not meet requirements.

b) VENTILATION

PROCEDURES/SPECIFICATIONS:

Body must be equipped with ventilating system capable of supplying proper quantity of air under operating conditions.

REJECT VEHICLE IF:

Air is obstructed; not securely fastened; not covered.

c) WARNING DEVICES

PROCEDURES/SPECIFICATIONS:

Either three red cloth flags not less than 12 inches square and three red reflectors minimum of 3 inches in diameter or three bidirectional emergency triangles that conform to 49 CFR 571.125.

Either three red cloth flags not less than 12 inches square and three red reflectors minimum of 3 inches in diameter or three bidirectional emergency triangles that conform to 49 CFR 571.125 (Section 12-702 of the Illinois Vehicle Equipment Law) Kit shall be securely stored.

REJECT VEHICLE IF:

Required warning devices are not present or are in poor condition.

d) WHEELS

1) Housings

PROCEDURES/SPECIFICATIONS:

Full open type attached to floor sheet to prevent water, fumes or dust entering the body. Inside height should not exceed 10 inches above floor line. Housings shall allow for unimpeded wheel and tire service or removal. Housing shall provide clearance for installation and use of tire chains on the dual or single tires installed on the rear wheels.

Inspect tire and road wheel assemblies.

REJECT VEHICLE IF:

Wheel housings do not meet clearance requirement; wheel housings are not firmly secured; holes are present.

A tire or wheel is rubbing against any portion of the suspension, chassis, or body.

2) Rim

PROCEDURES/SPECIFICATIONS:

Inspect all wheel and rim bolts, nuts, studs, lugs, locking rings, etc. Each cover, cap, or decorative ring that obscures any of these items must be removed prior to the inspection.

Inspect for visible wheel damage.

REJECT VEHICLE IF:

Any wheel or rim securing device such as a nut, bolt, stud, lug, ring, or other type securing device is loose, missing, or cracked.

Wheel locating hole(s) are elongated, oversized, or "wallowed out." Any part of a wheel or rim is cracked, repaired by welding or rewelding, or damaged so as to cause unsafe operation of the vehicle.

3) Tires

PROCEDURES/SPECIFICATIONS:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Inspect tire for proper inflation (i.e., flat tire).

A regrooved, retreaded, or recapped tire shall not be on the front steering axle.

A tire with restricted use marking is prohibited. (e.g., "NHS" or "SL" following size marking, "Off Highway," "Farm Use," "Racing Only," etc.)

No school bus shall be equipped with any tire which has been so worn that tread configuration is absent on any part of the tire in contact with the road surface. Inspect for tread wear:

A) $\frac{1}{2}$ Check for the presence of tread wear indicators.

B) $\frac{1}{2}$ For tires without tread wear indicators, use tread depth gauge to measure groove depth.

Steering (Front) and Drive (Rear) Axles
Axle: Measure groove depth at any point on a major tread groove.

Drive--(Rear)--Axle---Measure-groove-depth-in any-two-adjacent-grooves--at--three--equally spaced--intervals--around--the-circumference-of the-tire.

Do-not-measure-on-a-tie-bar--groove-hump--or fillet.

C) $\frac{1}{2}$ For tires without tread wear indicators and with noncircumferential grooves, or "spaces," between the tread elements (as in snow, mud, lug knob, or traction treads):

Steering (Front) and Drive (Rear) Axles
Axle: Measure in a major groove at a point halfway between the center of the tire and the outside of the tread at any

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

point on a major tread groove.

Drive--(Rear)--Axle---Measure-in-a-major-groove at-a-point-halfway-between-the-center-of--the tire--and--the--outside-of-the-tread-at-three equally--spaced--intervals--around--the circumference-of-the-tire.

D) $\frac{1}{2}$ Inspect tire for bald, partially bald, cupped, dishd or unevenly worn areas.

E) The measurements shall not be made where the tie bars, humps, or fillets are located.

AGENCY NOTE: "Bald" means without a groove.

Inspect for visible cord damage and exposure of ply cords in sidewalls and treads, including belting material cords.

Inspect for evidence of tread or sidewall separation.

Inspect for regrooved or recut treads.

AGENCY NOTE: 49 CFR 369 requires tires marked "REGROOVABLE" to have sufficient tread rubber that, after regrooving, cord material below the grooves shall have a protective covering of tread material at least $\frac{3}{32}$ inch thick.

Inspect tires for legible markings showing size designation and carcass construction.

"R" in size designation shows radial construction. More plies at tread than sidewall shows belted construction. Same number of plies at tread and sidewall, without a belted or radial indication, shows plain bias construction.

Tires on same axle must be of same construction.

Inspect tires for size designation and for matched construction.

AGENCY NOTE: "Construction" refers to bias, bias belted, or

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

radial arrangement of ply cords in the tire carcass.

Inspect each single dual tire assembly.

A mixture of regular and mud-and-snow treads must be the same on both sides of axle.

When radial and conventional (i.e., bias) tires are both used on a vehicle, one of the following two requirements shall be met:

A)1† On vehicles with one single wheel axle and one or more dual wheel axles, radial tires shall be used on the steering (i.e., front) axle only.

B)2† On vehicles having two single wheel xles, radial tires shall be used on the rear axle only.

A tube built only for bias tire shall not be installed in a radial tire. Red color shall not be added to stem of a "bias" tube. (Valve stem of tube for radial tire is either marked "radial" or has red ring or is painted red.) A "radial" tube and flap may be used in a bias tire.

Inspect valve stems.

REJECT VEHICLE IF:

Improper inflation (flat tire).

Regrooved, retreaded or recapped tire is located on front steering axle.

Restricted marking is present.

Any part of tire which is in contact with road surface is absent of tread configuration.

A)1† Tread wear indicators contact road at any point on a major tread groove in any two adjacent grooves--at--three--equally--spaced intervals around--the--circumference--of--the tire.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

B)2† On steering (front) axle: Tread groove depth is less than 4/32 inch when measured at any point on a major tread groove.

On drive (rear) axle: Tread groove depth is less than 2/32 inch when measured at any point on a major tread groove in any two adjacent grooves--at--three--essentially--equally spaced intervals around--the--circumference--of the tire.

C)3† On steering axle: Tread groove depth is less than 4/32 inch when measured in a major groove at a point halfway between the center of the tire and the outside of the tread at any point on a major tread groove.

On drive axle: Tread groove depth is less than 2/32 inch when measured in a major groove at a point halfway between the center of the tire and the outside of the tread at any point on a major tread groove at three essentially equally spaced intervals--around the circumference--of--the--tire.

D)4† The tire has bald, partially bald,

cupped, dishd or unevenly worn areas. A broken or cut cord can be seen. Rubber is worn, cracked, cut or otherwise deteriorated or damaged so that a cord can be seen either when the tire is not touched or when the edges of the crack, cut or damage are parted or lifted by hand.

Tire has bump, bulge, knot or other evidence of partial carcass failure, air seepage, or loss of adhesion between carcass and tread or sidewall.

Tread has been regrooved or recut on a tire that does not have the word "REGROOVABLE" molded on or into both sides of the tire.

A tire on a road wheel does not exhibit a legible size marking and a legible construction marking.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Tires on the same axle are not of same construction.

A tire exceeds the diameter (not width) of its mate by 1/2 inch (1/4 inch radius) or more; or one tire touches its mate.

A mixture of regular and mud-and-snow treads are not the same on both sides of the axle.

Requirements for using both radial and conventional tires on a vehicle are not met.

A tube built only for bias tire but installed in a radial tire.

A valve stem leaks; is cracked; is either damaged or positioned so as to hamper pressure checking or inflation; shows evidence of wear because of misalignment.

e) WINDOWS

PROCEDURES/SPECIFICATIONS:

All applicable provisions of 49 CFR 571.205 apply to the optional laminated safety glass and also to any plastic material(s) used in a multiple glazed unit.

Glazing shall be marked as follows pursuant to 49 CFR 571.205:

A)†† Windshield - "AS 1" Glass

B)‡‡ Driver's Window - "AS 1" Glass or "AS 2" Glass

C)‡‡ Driver's door - "AS 1" Glass or "AS 2" Glass

D)‡‡ All other locations - "AS 1" Glass, "AS 2" Glass, or "AS 3" Glass.

REJECT VEHICLE IF:

Windows do not meet requirements or ~~are not properly-identified~~.

1) Emergency

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

(Also see
EMERGENCY
EXITS)

PROCEDURES/SPECIFICATIONS:

When the emergency door is located on the left side, a rear emergency window shall be provided. Minimum dimensions are 16 inches high and 48 inches wide. Designed to be opened from the inside or the outside.

Hinged on top, designed and operated to insure against accidental closing in an emergency. Inside handle shall provide for quick release. Outside handle shall be nondetachable and nonhitchable. When locked or not fully latched, window shall actuate alarm audible and visible to driver. No cutoff switch allowed.

Optional emergency windows are allowed. They must be labelled "Emergency Exit" in letters at least two inches high, of a color that contrasts with its background, located at the top of or directly above the window on the inside surface of the bus. Optional emergency windows must be equipped with an audible alarm activated when window is locked or not fully latched.

REJECT VEHICLE IF:

Operating mechanisms do not function. Alarm does not function. Glass is cracked or broken (see EMERGENCY EXIT - Alarms and Locks).

PROCEDURES/SPECIFICATIONS:

Glazed panels, or windows, (except rear emergency window) shall be of fixed type. Any authorized or required signs, letters or numerals displayed on the window in the rear of the bus shall be located so as not to obstruct the driver's view.

REJECT VEHICLE IF:

Glass is cracked or broken. Visibility through rear windows is obstructed.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

3) Side

PROCEDURES/SPECIFICATIONS:

Each side window shall provide unobstructed emergency opening at least 9 inches high and 22 inches wide, obtained either by lowering window or by use of knock-out type split sash. A "Stop Line" is required six inches from top of window on all windows. Safety glass with exposed edges shall be banded.

Window latches must be in proper working order.

Exception: The requirements of this subsection do not apply to a side window or glazed panel installed forward of a front passenger seat, and are optional for a side window installed either beside a rear passenger seat, or in a side emergency exit.

Note: For information regarding optional route identification markings, see LETTERING bettering.

REJECT VEHICLE IF:

Side windows do not meet emergency opening requirements. Window does not open easily. Glass is cracked or broken. Stop lines are missing.

Window Latches do not operate properly.

4) Windshield

PROCEDURES/SPECIFICATIONS:

Shall be installed between front corner posts and designed not to obstruct driver's view. Shall be installed between front-corner-posts and designed not to obstruct driver's view (Section 12-501 of the Illinois Vehicle Equipment Law) Windshield shall be slanted to reduce glare. Tinted safety glass shall only be allowed six inches below top of windshield.

REJECT VEHICLE IF:

Windshield is not firmly sealed or attached.
Glass is broken, cracked, or discolored (not including allowed tint). "Star chip" is present
which measures more than one inch in diameter.

WASHER

WASHER

PROCEDURES/SPECIFICATIONS:

Windshield washer shall effectively clean entire area covered by both wipers.

Exception: All buses purchased prior to September 1974 are exempt. However, if bus is so equipped, washer must be in good operating condition.

REJECT VEHICLE IF:

Windshield washer does not effectively clean entire area or does not operate properly.

WIPERS

WIPERS

PROCEDURES/SPECIFICATIONS:

Two automatic, variable speed wipers with nonglare arms and blades. Need not be individually powered.

REJECT VEHICLE IF:

Windshield wipers do not cover entire cleaning area. Blades are damaged, torn, hardened, or rubber wiping element has broken down. Wiper fails to park properly when shut off.

(Source: Amended at 22 Ill. Reg. 11.000, effective

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Section 441. ILLUSTRATION E Driver's Pre-Trip Inspection Requirements and Sample Form (Repealed)

As required in Section 13-115 of the Illinois Vehicle Inspection Law, drivers must complete the following "Pre-Trip Inspection" daily:

"Each day that a school bus is operated the driver shall conduct a pre-trip inspection of the mechanical and safety equipment on the bus as prescribed by rule or regulation of the Department." (Section 13-115 of the Illinois Vehicle Inspection Law)

The following requirements became effective August 17, 1975:

- a) The driver must inspect his vehicle each day prior to beginning a trip.
- b) The driver is required to make a written report of this pre-trip inspection. He must report any defects found to the proper authority so that the defects can be corrected.
- c) The pre-trip inspection report shall be made in duplicate.
- d) As designated by the owner, the original copy shall be presented to the person of authority on a daily basis. These original copies shall be retained by the owner for one hundred and eighty days.
- e) The duplicate copy shall remain in the bus for a period of at least thirty days.
- f) The form shall specify items to be checked (see subsection (i)) and the minimum information to be recorded.
- g) The pre-trip inspection records and reports will be made available for inspection and audit by authorized representatives of the Department at any time.
- h) It is the responsibility of the bus owner to furnish pre-trip inspection report forms that meet the minimum requirements of this Chapter.
- i) Required items to be checked during the driver's pre-trip inspection:
 - 1) Coolant, oil, battery, washer, fluid levels, fan belts, and wiring.
 - 2) Steps, cleanliness, upholstery, windows, warning devices, fuses, first aid kit, fire extinguisher, emergency door (open and close), lettering.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 3) Odometer reading and indication of whether or not state inspection is due.
- 4) Steering wheel, windshield wipers and washers, heater, defroster, horn, service door (open and close), all mirrors (adjustment), door buzzer, clutch-brake warning buzzer, stop-arm control, gear shift lever, neutral safety switch, water temperature fuel, vacuum or air pressure gauges, parking brake seat belts.
- 5) Ammeter, all interior lights, headlights (high/low beams).
- 6) Right front wheel and tire, right side marker lamp, turn signal light and reflectors, right rear view and safety mirror, headlights, turn signals, cluster, clearance, and ID lights, alternating flashing lights, windshield, underside of chassis, crossover mirror, left rear view mirror and safety mirror, left front wheel and tire, driver's side window, stop arm, left side marker lamp, turn signal light and reflectors, emergency door (open and close), left rear wheels and tires, exhaust system (tailpipe clear), cluster, clearance and ID lights, tailights, turn signals and reflectors, alternating flashing lights, rear emergency door (open and close), right rear wheels and tires, fuel tank filler caps.
- 7) Brakes, air brake, tank, Record condition of bus (satisfactory or unsatisfactory).

THIS PAGE LEFT BLANK INTENTIONALLY.

THIS PAGE LEFT BLANK INTENTIONALLY.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Section 441. ILLUSTRATION F School Bus Emergency Exits

School buses manufactured on or after September 1, 1994 may be equipped with additional exits. These additional exit requirements apply to school buses with an incomplete vehicle date of on or after September 1, 1994. The incomplete vehicle date can be found on the bus' federal certification label.

Each school bus will first be equipped with either a rear emergency door or a side emergency door and rear emergency window as stated in paragraphs (a) and (b).

The following Tables specify the required number of exits depending on the vehicle's passenger capacity and emergency exit configuration.

- a) One rear emergency door that opens outward and is hinged on the right side (either side in the case of a bus with a GVWR of 10,000 pounds or less), and the additional exits, if any, specified by Table 1.

TABLE 1

Seating Capacity	Additional Exits Required
1-45	None.
45-62	1 left side exit door or 2 exit windows.
63-70	1 left side exit door or 2 exit windows, and 1 roof exit.
71 and above	1 left side exit door or 2 exit windows, and 1 roof exit, and any combination of door, roof, or windows such that the total capacity credit specified in Table 3 for these exits, plus 70, is greater than the seating capacity of the bus.

- b) One emergency door on the vehicle's left side that is hinged on its forward side and a pushout rear window that provides a minimum opening clearance 16 inches high and 48 inches wide, and the additional exits, if any, specified by Table 2.

TABLE 2

Seating Capacity	Additional Exits Required
------------------	---------------------------

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

1-57	None.
58-74	1 right side exit door or 2 exit windows, and 1 roof exit.
75-82	1 right side exit door or 2 exit windows, and 1 roof exit.
83 and above	1 right side exit door or 2 exit windows, and 1 roof exit, and any combination of door, roof, or windows such that the total capacity credit specified in Table 3 for these exits, plus 82, is greater than the seating capacity of the bus.

TABLE 3

Exit Type	Capacity Credit
Side Door	16
Window	8
Roof Exit	8

AGENCY NOTE: In order to explain the use of Table 3, the following example is provided:

The owner/operator of a 75 passenger bus can choose either a side door, window or roof exit to meet the additional exit requirements for buses with a seating capacity of 71 and above. If the owner/operator chooses a side door, he/she would add 16 and 70 for a total sum of 86. As long as the total sum is greater than the original passenger capacity of the bus, the exit choice is acceptable.

(Source: Added at 22 Ill. Reg. effective 1-1-98)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Tourist Oriented Directional Signing Program

- 2) Code Citation: 92 Ill. Adm. Code 541

- 3) Section Numbers:

541.10	New Section	Adopted Action:
541.20	New Section	
541.30	New Section	
541.40	New Section	
541.50	New Section	
541.60	New Section	
541.Illustration A	New Section	

- 4) Statutory Authority: Implementing Section 4.08 of the Highway Advertising Control Act of 1971 [225 ILCS 440/4.08] and Section 49.30 of the Civil Administrative Code [20 ILCS 2705/49.30], and authorized by Section 4-201.1 of the Illinois Highway Code [605 ILCS 5/4-201.1] and Section 14.01 of the Highway Advertising Control Act of 1971 [225 ILCS 440/14.01].

- 5) Effective Date of Rules: June 30, 1998

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this rule contain incorporations by reference? No

- 8) Date filed in agency's principal office: July 1, 1998

- 9) Notice of proposal published in Illinois Register: April 10, 1998, 22 Ill. Reg. 6630

- 10) Has JCAR issued a Statement of Objections to these rules? No

- 11) Differences between proposal and final version: The following changes were made in response to public comment and in agreement with JCAR:

The Department, at Section 541.40(a)(6), inserted a new sentence at the end of the subsection.

The Department, at Section 541.40(h)(2), revised the sentence in this subsection.

The Department, at Section 541.30(e), deleted the word "approximately" before "200".

At Section 541.60(a)(3), the Department deleted the words ", and other appropriate information" at the end of the sentence.

At Section 541.60(b)(2), the Department inserted the words "in this

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

Section" in the third sentence of the subsection.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes

- 13) Will this rule replace an Emergency Rule currently in effect? No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and purpose of rules:

This Part establishes provisions for the use of Tourist Oriented Directional Signs (TODS) along State-maintained non-freeways as authorized by Section 4.08 of the Highway Advertising Control Act of 1971 [225 ILCS 440/4.08] and Section 49.30 of the Civil Administrative Code [20 ILCS 2705/49.30]. This Part allows the Department to install signs, for a fee, at rural non-freeway intersections to direct motorists to businesses that derive the major portion of their income from visitors or tourists not residing in the immediate vicinity of the business.

These signs, referred to as Tourist Oriented Directional Signs, or TODS, will provide motorists with travel related directional information to facilities offering gas, food, lodging and camping. Any business that meets the established criteria set forth in this Part may elect to pay the application fee to have a sign with its business name, the days and months of operation, where applicable, and the mileage to the business placed upon its sign.

This program will begin 45 days after the adoption of the rule and will apply to conventional roads in rural areas.

The Department will be utilizing the Federal Manual on Uniform Traffic Control Devices for standards regarding specifications and locations of signs.

- 16) Information and questions regarding these adopted rules shall be directed to:

Mr. Joseph Hill, Chief Engineer
Bureau of Operations, Room 009
Illinois Department of Transportation
Division of Highways
Springfield, Illinois 62764
(217) 782-7231

The full text of the Adopted Rules begins on the next page:

DEPARTMENT OF TRANSPORTATION

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

NOTICE OF ADOPTED RULES

TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER f: HIGHWAYS

PART 541

TOURIST ORIENTED DIRECTIONAL SIGNING PROGRAM

Section

- 541.10 Introduction
 - 541.20 Definitions
 - 541.30 Tourist Oriented Directional Signs
 - 541.40 Business Signs
 - 541.50 Sign Design
 - 541.60 Application, Fees, and Other Regulations
- ILLUSTRATION A - I District Boundary Map

AUTHORITY: Implementing Section 4.08 of the Highway Advertising Control Act of 1971 [225 ILCS 440/4.08] and Section 49.30 of the Civil Administrative Code [20 ILCS 2705/49.30], and authorized by Section 4-201.1 of the Illinois Highway Code [605 ILCS 5/4-201.1] and Section 14.01 of the Highway Advertising Control Act of 1971 [225 ILCS 440/14.01].

SOURCE: Adopted at 22 Ill. Reg. 12001, effective June 6, 1990.

Section 541.10 Introduction

- a) This Part has been developed to regulate the use of Tourist Oriented Directional Signs (TODS) displayed along various State-maintained non-freeways. It establishes standards, specifications, and financial responsibility for a TODS program providing motorists with travel related directional information to facilities of interest to tourism.
- b) This program applies to non-freeways within the State of Illinois that are under the jurisdiction of the Department of Transportation (the Department) and that are outside of urban areas.

Section 541.20 Definitions

The following words or phrases when used in this Part shall have the meanings ascribed to them below.

"Business" - an open establishment available to the general public which is oriented toward tourism and the major portion of whose income or visitors are derived during the normal business season from motorists not residing within 25 air miles of such business.

"Business Sign" - a rectangular sign consisting of a business name,

NOTICE OF ADOPTED RULES

directional information, and mileage.

"Calendar Year" - a year beginning January 1 and ending the following December 31.

"Department" - the Illinois Department of Transportation, with central offices at 2300 South Dirksen Parkway, Springfield, Illinois 62764.

"Intersecting Road" - a public road intersecting a marked State highway.

"Marked State Highway" - a State-maintained highway carrying a State or US route number.

"Non-Freeway" - a divided or undivided marked State highway without full control of access and without grade separations at crossroads.

"Qualifying Business" - a business meeting the criteria for signing contained in Section 541.40(f).

"Rural Area" - an area outside of an urban area.

"Tourist Oriented Directional Sign" or "TODS" - a rectangular sign installed on a State highway displaying the words "TOURIST ACTIVITIES" with a maximum of four business signs mounted underneath.

"Trailblazer Sign" - a business sign displayed, together with an arrow panel, off of a marked State highway to advise motorists where to turn on the intersecting road.

"Urban Area" - An urban area includes: one or more incorporated communities listed by the Federal Bureau of Census as encompassing a total population of 2,500 or more within a defined area, including any unincorporated areas within such boundaries but excluding rural portions of "extended" communities; and Federal Bureau of Census designated places of 2,500 or more population.

Section 541.30 Tourist Oriented Directional Signs

- a) Tourist oriented directional signs shall only be erected in rural areas.
- b) No more than one tourist oriented directional sign will be erected within the right-of-way of a marked State highway for each direction of travel in advance of an intersecting road.
- c) All tourist oriented directional signs will be ground-mounted.
- d) Tourist oriented directional signs will not be installed within the right-of-way of a marked State highway within the corporate limits of any municipality located outside of an urban area unless the

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

municipality agrees in writing to the installation.

- e) Each tourist oriented directional sign along a State highway shall be installed at a minimum distance of 200 feet from other signs.

Section 541.40 Business Signs

- a) Specific types of businesses shall meet the following criteria to qualify for signing:

1) GAS: Should be open five days a week, including a Saturday or a Sunday, for a minimum of 12 hours a day for at least six months of the year. If open less than five days a week for six months, or if not open on either a Saturday or a Sunday, the days of the week and months open, as applicable, must be shown on the business sign. It shall have normal service station goods and services, including telephone, gas, oil, water and restroom. An attendant must be present at the business at all times the business is open.

2) FOOD: Should be open five days a week, including a Saturday or a Sunday, for at least six months of the year. If open less than five days a week for six months, or if not open on either a Saturday or a Sunday, the days of the week and months open, as applicable, must be shown on the business sign. It shall be certified by the Illinois Department of Public Health or local health department and have a public restroom and telephone.

3) LODGING: Should be open seven days a week for at least six months of the year. If open less than seven days a week for six months, the days of the week and months open, as applicable, must be shown on the business sign. It shall have a telephone, restroom and sleeping accommodations. The majority of the accommodations shall be available to the general public and not restricted to members only nor rented or leased on a time-share basis.

4) CAMPING: Should be open seven days a week for at least six months of the year. If open less than seven days a week for six months, the days of the week and months open, as applicable, must be shown on the business sign. It shall have camping and parking accommodations, restroom, telephone, and drinking water. The majority of the camp sites shall be available to the general public and not restricted to members only nor rented or leased on a time-share basis.

5) AGRICULTURAL BUSINESSES: Should be open five days a week, including a Saturday or a Sunday, during the applicable growing and harvesting season for the crop(s) involved and shall offer for sale primarily products grown, harvested, or produced within 50 miles of the business. If open less than five days a week for six months, or if not open on either a Saturday or a Sunday, the days of the week and months open, as applicable, must be shown on the business sign. Such businesses shall include but are not

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

limited to fruit orchards, vegetable stands, tree farms, vineyards and wineries.

6) GENERAL TOURIST ATTRACTIONS: Should be open five days a week, including a Saturday or a Sunday, for at least six months of the year. If open less than five days a week for six months, or if not open on either a Saturday or a Sunday, the days of the week and months open, as applicable, must be shown on the business sign. General tourist attractions shall include but are not limited to marinas, sport fishing/bait facilities, stage theaters, amusement parks, riding stables, antique stores, craft stores, museums, golf courses, ski areas, facilities offering aircraft, boat, or train rides, and historic villages. The attraction shall be available to the general public and not restricted to members only.

7) INELIGIBLE BUSINESSES: Businesses not normally associated with tourism are not eligible even when the majority of their visitors or income is derived from motorists not residing within a 25 air mile radius of the business. Such businesses include, but are not limited to, shopping malls, discount malls, furniture/clothing stores, automobile/truck dealerships, malls or garages, drug stores, movie theaters, community business districts, appliance stores, department stores, schools, houses of worship, real estate offices, auction houses, livestock sales facilities, sand and gravel facilities, and grocery stores.

a) A maximum of four business signs for four individual qualifying businesses may be placed under each tourist oriented directional sign. No individual business shall be allowed more than one business sign under an individual tourist oriented directional sign.

d) No more than one business sign for any individual qualifying business may be erected in any given direction at more than one intersection on any given State highway.

e) Where there are qualifying businesses in each direction on the intersecting road, the business signs directing motorists to the left shall be placed above the business signs for those businesses to the right.

f) Signing for a qualifying business shall only be allowed at a given marked State highway intersection where the business can be reached without crossing another marked State highway.

g) Business Signing Priorities
1) A maximum of four business signs may be installed at any one intersection with a State marked highway. Where there are more businesses eligible for and desiring signing than the number of signs permitted, those businesses nearest the intersection will be given first priority for signing.

2) Business signs which have been installed will not be removed because of a nearer business desiring signing as long as the business having the signing continues to meet the established criteria and continues to pay the annual fees.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

- 3) When a space becomes available under an individual tourist oriented directional sign, the eligible business desiring signing submitting an application first along with the required application fee will be given first priority for signing. If that business does not remit the required yearly fee to the Department within 30 calendar days after being notified in writing that its application is approved, the space will be offered to the next eligible business submitting a valid application. In the event the Department receives applications, including the required application fees, from more than one business on any given business day, the business closest to the intersection will be given first priority for any available space. The Department will not install signs for any business until the required yearly fee is paid.
- 4) When a business closes due to remodeling, or due to an Act of God including, but not limited to, fire or flood, the business signs will be removed and stored by the Department for up to a maximum of six months. If the business remains closed after six months, the space will be declared available. In any event, if the allowable closure period extends to the subsequent calendar year, the annual fee for the business shall be paid for that year or the space will be declared available. Any portion of such closure time which may occur during the normal seasonal closure of the business as noted on the business signs will not count in determining the six month period.
- 5) When the type of business changes, such as an antique shop changing to a food establishment, the business will lose its signing priority. The business signs will be removed by the Department, and the space will be declared available. The business will also lose its signing priority if it closes for any length of time even during its normal seasonal closure as shown on the business signs and is openly up for sale. When a space is declared available a business which has lost its signing priority shall submit a new application, including the application fee, for inclusion in the program and its priority will be evaluated among all the other eligible businesses desiring signing at that intersection as set forth in subsection (g)(3) above.
- 6) Where it is necessary to measure distance in order to determine signing priority, the distance to each business establishment will be measured as the travel distance between the center of the intersection of the marked State highway with the intersecting road and the primary entrance to the business. Where an entrance serves more than one business, the driving distance using the proper marked driving aisles from the entrance to the parking space available for patrons nearest the business shall be added to the distance measured along the intersecting road.
 - h) Location of Business
 - 1) A business must be located within a rural area.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

- 2) A business on the road intersecting with a marked State highway will not be signed on the State marked highway if the business is located with its property abutting the marked State highway, and the business or a sign at the site of the business is visible to the motorists advising motorists of the appropriate entrance to the establishment.
- 3) A business not on the road intersecting with a marked State highway will be signed on the State marked highway if trailblazing or other signs are in place on the intersecting road and on such other roads as may be necessary to clearly advise motorists where to turn to reach the business. Where the intersecting road or other roads leading from the intersection with the State marked highway are unmarked State highways, the Department will place such trailblazer signs on the State highways for the fee established in Section 541.60(b)(2). Where roads are under local agency jurisdiction, signing will not be provided on State highways until legible trailblazer or other signs are placed by, or by permission of, such local agencies with directional information advising motorists where to turn. The business shall have the responsibility for arranging with the appropriate local agency for the placement of all signs on roads under the jurisdiction of that local agency.

Section 541.50 Sign Design

- a) Tourist oriented directional signs will contain the words "TOURIST ACTIVITIES" in white legend six inches in height on a blue background 12 inches in height and 72 inches in width.
- b) Business signs will consist of the business' name in one or two lines of copy and shall not include any trademark or symbol. The business' name will be in white legend four inches in height on a blue background 18 inches in height and 72 inches in width and will contain the days and months of operation where applicable, and the mileage to the business measured to the nearest half mile. The mileage will not be shown where the distance is less than a half mile. Where necessary, the Department will abbreviate the name of the business so that it shall fit in the space provided.

Section 541.60 Application, Fees, and Other Regulations

- a) Application
 - 1) Where the TODS program is implemented on a State highway for the first time, the Department will publish in local newspapers a notice soliciting participation from eligible tourist oriented businesses.
 - 2) Application forms will be available from the Department (see Section 541.1 Illustration A-District Boundary Map for a listing of District addresses and phone numbers) for all businesses that

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

could qualify to have business signs included in this program. If a business wishes to participate in this program, it must complete an application form and submit it to the Department by the deadline indicated in the newspaper notice. Applications received after the indicated date will be considered if space is still available at the State highway intersection in question.

3) Where the Department determines from the initial application that the business meets the criteria listed in this Part and space is available, the application will be approved and returned to the business along with instructions concerning payment of the annual fee.

4) Applications for qualifying businesses desiring spaces subsequent to the initial installation will be considered on a first come-first served basis as spaces become available. Applications will be taken for spaces which may become available at some future date when there are no spaces available at the time the applications are submitted. In such cases, the application fee will be returned to the applicant and the applicant's name will be kept on file. When a space becomes available, the qualifying businesses who are on file will be notified by mail in the order of their initial application date to see if they are still interested in the space. The applicant who desires to have the available space and whose application has been on file the longest, providing the application fee is submitted within 45 days after the written notification, shall be given the available space with the remaining businesses being retained on file. Priority for two or more applicants with the same initial application date shall be based on the distance from the State highway with the business closest to the highway having the highest priority.

b) Fees

- 1) A \$50 nonrefundable application fee must be submitted by the business establishment to the Department with the application. A \$50 nonrefundable application fee will also be charged when a business reapplies for signing after their signs have been removed due to late rental payments, temporary withdrawal from the program, or when the type of operation of a business changes.
- 2) An annual fee of \$65, sufficient to offset the cost of this program, will be charged for each business sign displayed on the State highway system. This fee is based on recovering the Department's costs for the program based on a six year life for posts and signs and includes the placement of new signs as necessary. Every other calendar year, the Department will recompute the fees and make such adjustments in this Section as may be warranted so as to reflect the cost of maintaining the signing system. Fees will be collected on an annual basis. When a business establishment makes an annual payment, it will be guaranteed participation in the program for the entire year, as

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

long as it continues to meet the criteria under this Part. Any business closing or withdrawing from the program after making its annual payment will not be given a refund. A prorated fee will be charged for signs initially installed after the beginning of a calendar year. No proration will be given for seasonal closings.

3) Where payment is not received by the Department within 30 days after the due date, the business sign(s) will be removed by the Department and the business will lose its signing priority to the next business desiring the space. When the fee is received after the business sign is removed, and space is still available on the panel, a fee of \$50 will be charged for reapplication as provided for in Section 541.60(b)(1), in addition to the annual fee for the remainder of the calendar year, as well as that portion of the annual fee owed for the period of time between the end of the preceding calendar year and the date the signs were removed.

4) A fee of \$150 for each business sign will be charged for a business requesting that its signs be replaced with new signs because of a change in the name of the business, or a change in the days or months of operation. Where such replacement is requested, all business signs for the specific business on the State highway system will be replaced at the same time. Also, any business signs which are tampered with by the business by altering the name, changing the days or months of operation, or by adding a logo, symbol or any other wording subsequent to their installation will be removed by the Department. If the business wishes to continue in the program, it shall pay a fee of \$150 per sign.

c) Placing and Maintaining Business Signs

- 1) The Department will erect the signs on the State highway system after approval of the application for a business and proof that trailblazer signs, where required, are in place on highways under the jurisdiction of local agencies. Only the Department will place, maintain, remove, or alter the business signs on the State highway system.
- 2) Businesses will be required to certify on the application that they meet the established criteria. When the Department receives a complaint that a business may not comply, the suspected business will be contacted by the Department to determine if it meets the established criteria. If it is determined the facility fails to qualify, the business must change its operation so as to comply or its business signs will be removed and no refund will be made of any portion of the annual fees already paid.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

Section 541. ILLUSTRATION A - District Boundary Map

DISTRICT ENGINEERS

DISTRICT 1
201 West Center Court
(Inside Delivery)
Schaumburg IL 60196-1096
Phone: 847/705-4000

DISTRICT 2
819 Depot Avenue
Dixon IL 61021-3546
Phone: 815/284-2271

DISTRICT 3
700 East Norris Drive
P.O. Box 697
Ottawa IL 61350-0697
Phone: 815/434-6131

DISTRICT 4
401 Main Street
Peoria IL 61602-1111
Phone: 309/671-3333

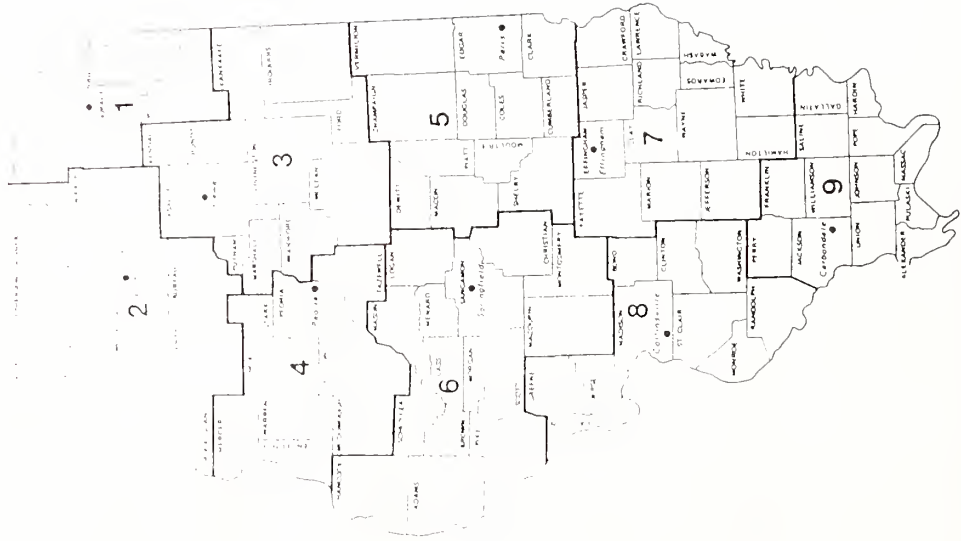
DISTRICT 5
Route 133 West
P.O. Box 610
Paris IL 61944-0610
Phone: 217/465-4181

DISTRICT 6
126 East Ash Street
Springfield IL 62704-4766
Phone: 217/782-7301

DISTRICT 7
400 West Wabash
Effingham IL 62401-2699
Phone: 217/342-3951

DISTRICT 8
1102 Eastport Plaza Dr.
Collinsville IL 62234-6198
Phone: 618/346-3100

DISTRICT 9



DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

State Transportation Bldg.
P.O. Box 100
Carbondale IL 62903-0100
Phone: 618/549-2171

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

1) Heading of the Part: Attorney General's Procurement

2) Code Citation: 44 Ill. Adm. Code 1300

3) Section Numbers: Emergency Action:

1300.01 New
1300.05 New
1300.08 New
1300.10 New
1300.15 New
1300.25 New
1300.30 New
1300.525 New
1300.525 New
1300.1002 New
1300.1010 New
1300.1510 New
1300.1560 New
1300.1570 New
1300.1580 New
1300.2005 New
1300.2010 New
1300.2012 New
1300.2015 New
1300.2020 New
1300.2025 New
1300.2030 New
1300.2035 New
1300.2036 New
1300.2037 New
1300.2038 New
1300.2040 New
1300.2043 New
1300.2044 New
1300.2045 New
1300.2046 New
1300.2047 New
1300.2050 New
1300.2055 New
1300.2060 New
1300.2560 New
1300.2800 New
1300.4005 New
1300.4010 New
1300.4505 New
1300.4510 New
1300.4530 New
1300.4535 New
1300.4540 New

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

1300.4545 New
1300.5013 New
1300.5015 New
1300.5020 New
1300.5030 New
1300.5035 New
1300.5310 New
1300.5510 New
1300.5520 New
1300.5530 New
1300.5540 New
1300.5550 New
1300.6010 New
1300.6500 New
1300.6510 New
1300.6520 New
1300.7000 New
1300.7010 New
1300.7015 New
1300.7020 New
1300.7025 New
1300.7030 New

4) Statutory Authority: Public Act 90-572, Section 1-30, effective July 1, 1998 (30 ILCS 500/1-30)

5) Effective date of Rules: July 1, 1998

6) This emergency rule will expire upon adoption of the rule through the general rulemaking process.

7) Date filed in Agency's principal office: June 24, 1998

8) Reason for Emergency: Authorizing legislation was enacted February 6, 1998, effective July 1, 1998. The general rulemaking process was delayed by agreement between the Attorney General and JCAR to permit the Procurement Policy Board, which was created by the authorizing legislation, to review the proposed rules. Rules must be effective on July 1, 1998, to avoid interruption in agency activities.

9) A Complete Description of the Subjects and Issues Involved: These rules set forth the procedures to be used by the Office of the Attorney General for procuring goods and services, other than standard employment of personnel, necessary for carrying out the duties of the Office.

10) Are there any proposed amendments to this Part pending? The First Notice of Rulemaking creating the proposed Part was published April 10, 1998, 22 Ill. Register 6288. Second notice was filed May 27, 1998. These

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

Emergency Rules are derivative of those originally published, and anticipate the final version.

- 11) Statement of Statewide Policy Objectives: This Emergency Rule neither creates nor modifies a State mandate within the meaning of Section 3(b) of the State Mandates Act (30 ILCS 805/3(b)).

- 12) Information and questions regarding this Rule shall be directed to:

Shawn W. Denney
Counsel to the Attorney General
Office of the Attorney General
500 South Second Street
Springfield, Illinois 62706
(217) 782-1090

The full text of the Emergency Rules begins on the next page:

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENTS AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER XX: ATTORNEY GENERAL

PART 1300
ATTORNEY GENERAL'S PROCUREMENT

SUBPART A: GENERAL

Section	Title
1300.01	EMERGENCY
1300.05	Policy
1300.08	EMERGENCY
1300.08	Illinois Procurement Code
1300.10	EMERGENCY
1300.10	Application
1300.15	EMERGENCY
1300.15	Definitions of Terms Used in This Part
1300.25	EMERGENCY
1300.25	Property Rights
1300.30	EMERGENCY
1300.30	Contracts Necessary to Prepare for Anticipated Litigation

SUBPART B: PROCUREMENT RULES

Section	
1300.525	Procurement by DCMS Rules
EMERGENCY	

SUBPART C: PROCUREMENT AUTHORITY

Section	
1300.1002	Conduct of Procurements
EMERGENCY	
1300.1010	Construction
EMERGENCY	

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section	
1300.1510	Publicizing Procurement Actions
EMERGENCY	
1300.1560	Supplemental Notice
EMERGENCY	
1300.1570	Error in Notice

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

EMERGENCY

1300.1580 Direct Solicitation
EMERGENCY

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION - GENERAL

Section

1300.2005 General Provisions

EMERGENCY

1300.2010 Competitive Sealed Bidding

EMERGENCY

1300.2012 Multi-Step Sealed Bidding

EMERGENCY

1300.2015 Competitive Sealed Proposals

EMERGENCY

1300.2020 Small Purchases

EMERGENCY

1300.2025 Sole Source Procurement

EMERGENCY

1300.2030 Emergency Procurements

EMERGENCY

1300.2035 Competitive Selection Procedures

EMERGENCY

1300.2036 Other Methods of Source Selection

EMERGENCY

1300.2037 Tie Bids and Proposals

EMERGENCY

1300.2038 Mistakes

EMERGENCY

1300.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

EMERGENCY

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section

1300.2043 Suppliers

EMERGENCY

1300.2044 Vendor List/Required Use

EMERGENCY

1300.2045 Prequalification

EMERGENCY

1300.2046 Responsibility

EMERGENCY

SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

Section

1300.2047 Security Requirements

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

EMERGENCY

SUBPART H: SPECIFICATIONS AND SAMPLES

Section

1300.2050 Specifications and Samples

EMERGENCY

SUBPART I: CONTRACT TYPE

Section

1300.2055 Types of Contracts

EMERGENCY

SUBPART J: DURATION OF CONTRACTS

Section

1300.2060 Duration of Contracts - General

EMERGENCY

SUBPART K: CONTRACT MATTERS

Section

1300.2560 Prevailing Wage

EMERGENCY

SUBPART L: CONTRACT PRICING

Section

1300.2800 All Costs Included

EMERGENCY

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section

1300.4005 Real Property Leases and Capital Improvement Leases

EMERGENCY

1300.4010 Renewal

EMERGENCY

SUBPART O: PREFERENCES

Section

1300.4505 Procurement Preferences

EMERGENCY

1300.4510 Resident Bidder Preference

EMERGENCY

1300.4530 Correctional Industries

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

EMERGENCY
1300.4535 Sheltered Workshops for the Disabled
EMERGENCY
1300.4540 Gas Mileage
EMERGENCY
1300.4545 Small Business
EMERGENCY

SUBPART P: ETHICS

Section
1300.5013 Conflicts of Interest
EMERGENCY
1300.5015 Negotiations for Future Employment
EMERGENCY
1300.5020 Exemptions
EMERGENCY
1300.5030 Revolving Door
EMERGENCY
1300.5035 Disclosure of Financial Interests and Potential Conflicts of
EMERGENCY Interest

SUBPART Q: CONCESSIONS

Section
1300.5310 Concessions
EMERGENCY

SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

Section
1300.5510 Complaints Against Vendors
EMERGENCY
1300.5520 Suspension
EMERGENCY
1300.5530 Settlement and Resolution of Contract and Breach of Contract
EMERGENCY Controversies
1300.5540 Violation of Law or Rule
EMERGENCY
1300.5550 Protests
EMERGENCY

SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

Section
1300.6010 Supply Management and Dispositions
EMERGENCY

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

SUBPART T: GOVERNMENTAL JOINT PURCHASING

Section
1300.6500 General
EMERGENCY
1300.6510 OAG Use of Other Contracts
EMERGENCY
1300.6520 No Agency Relationship
EMERGENCY

SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section
1300.7000 Severability
EMERGENCY
1300.7010 Government Furnished Property
EMERGENCY
1300.7015 Inspections
EMERGENCY
1300.7020 Records and Audits
EMERGENCY
1300.7025 Written Determinations
EMERGENCY
1300.7030 No Waiver of Sovereign Immunity
EMERGENCY

AUTHORITY: Implementing and authorized by Section 1-30 of the Illinois
Procurement Code [30 ILCS 500/1-30].

SOURCE: Adopted by emergency rule at 22 Ill. Reg. 16, effective
JUL 01 1998.

SUBPART A: GENERAL

Section 1300.01 Title
EMERGENCY

This Part may be cited as the Attorney General's Procurement Rules.

Section 1300.05 Policy
EMERGENCY

All procurements for the Office of the Attorney General (OAG) shall be
accomplished in the most economical, expeditious and commercially reasonable
manner that is in accordance with law, this Part and other applicable rules.

Section 1300.08 Illinois Procurement Code
EMERGENCY

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

Articles 1, 15, 20, 25, 35, 40, 45, 50 and 53 of the Illinois Procurement Code [30 ILCS 500/Arts. 1, 15, 20, 25, 35, 40, 45, 50 and 53] (the Code) will be referenced herein as though applicable to the OAG, and needs shall be procured in a manner substantially in accordance with those provisions of the Code, except to the extent otherwise provided in this Part. For purposes of this Part, any reference in the Code or this Part to the Chief Procurement Officer (CPO) means the Attorney General or his designee. The Attorney General may appoint one or more State Purchasing Officers (SPO).

Section 1300.10 Application EMERGENCY

- a) The Code and this Part apply to those procurements for which the contractors were first solicited on or after July 1, 1998.
- b) Procurements for which contractors were first solicited on or before June 30, 1998, shall be conducted pursuant to legal requirements in effect at the time of the solicitation. The terms and conditions and the rights and obligations under contracts resulting from such procurements shall not be impaired.
- c) A solicitation occurs on or before June 30, 1998, for purposes of this Part, in the following circumstances:
 - 1) When advertising is required in the Official State Newspaper, the first advertisement must run no later than June 30, 1998.
 - 2) When advertising is not required:
 - A) but if the procurement was advertised, the first advertisement must have run no later than June 30, 1998;
 - B) if the procurement was by direct solicitation by mail, the solicitation must have been postmarked no later than June 30, 1998;
 - C) if the procurement was by direct solicitation by fax, the fax must show a transmission date no later than June 30, 1998;
 - D) if the procurement was solicited in-person or by telephone, the solicitation must have occurred no later than June 30, 1998, and the individual who made the solicitation must state in writing when the procurement was discussed, and must name the party with whom the discussion took place.
- 3) In all circumstances, the solicitations must be for the procurement of particular needs. A general discussion to determine if there is any interest is not considered a solicitation.

Section 1300.15 Definitions of Terms Used in This Part EMERGENCY

As used throughout this Part, terms defined in the Illinois Procurement Code shall have the same meaning as in the Code and as further defined below, and each term listed in this Section shall have the meaning set forth below unless

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

its use clearly requires a different meaning. Terms may be defined in particular Sections for use in that Section.

"Bid" - The response to an Invitation for Bids.

"Bidder" - Any person who submits a bid.

"Brand Name or Equal Specification" - A specification which uses one or more manufacturer's names or catalogue numbers to describe the standard of quality, performance, and other characteristics needed to meet State requirements, and which allows the submission of equivalent products.

"Brand Name Specification" - A specification limited to one or more items by manufacturers' names or catalogue numbers.

"Contract" - A contract may be in written or oral form. The term contract as used in the Code and this Part does not include: goods or services the terms governing which are established by tariff of the Illinois Commerce Commission or the Federal Communications Commission, bonds issued by or on behalf of any State agency, or contracts, other than for "concessions", where the State agency signs, but has no financial obligation to the other parties.

"Day" - Calendar day. In computing any period of time, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a State holiday, in which event the period shall run to the end of the next business day.

"DCMS" or "CMS" - The Department of Central Management Services.

"OAG" - The Office of the Attorney General

"Proposal" - the response to a Request for Proposals.

"Purchase of Care" - Purchase of care means a contract with a person for the furnishing of medical, educational, psychiatric, vocational, rehabilitative, social, or human services directly to a recipient of a State aid program. [30 ILCS 500/1-15.68] Services provided to a recipient include those that are a necessary adjunct to the provision of the State aid program services (e.g., obtaining intake information prior to commencement of medical treatment). Services provided to an applicant for a State aid program necessary to determine eligibility for the program are included within this definition.

"Qualified Products List" - An approved list of supplies, services, or construction items described by model or catalogue numbers, which,

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

prior to competitive solicitation, the State has determined will meet the applicable specification requirements.

"Specification" - Any description of the physical, functional, or performance characteristics, or of the nature of supply, service, or construction items. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply, service, or construction item for delivery. Unless the context requires otherwise, the terms "specification" and "purchase description" are used interchangeably throughout this Part.

"Specification for a Common or General Use Item" - A specification that has been developed and approved for repeated use in procurements in accordance with the provisions of Section 1300.2050.

Section 1300.25 Property Rights

EMERGENCY

Receipt of an Invitation for Bids or other procurement document, or submission of any response thereto or other offer, confers no right to receive an award or contract, nor does it obligate the State in any manner.

Section 1300.30 Contracts Necessary to Prepare for Anticipated Litigation

EMERGENCY

Contracts necessary to prepare for anticipated litigation, enforcement actions or investigations, including but not limited to the appointment of special assistant attorneys general, contracts for court reporter services, and contracts with expert witnesses, are excepted from the application of the Code and this Part, provided that they are approved by Counsel to the Attorney General, or his designee, as provided in Section 1-10(7) of the Code.

SUBPART B: PROCUREMENT RULES

Section 1300.525 Procurement by DCMS Rules

EMERGENCY

To the extent practicable, the OAG may avail itself of master, schedule or open-ended contracts established by DCMS; items available from the Paper and Printing Warehouse; and DCMS contracts for telecommunications equipment, software and services, paper and envelopes, and vehicles and vehicle services.

SUBPART C: PROCUREMENT AUTHORITY

Section 1300.1002 Conduct of Procurements

EMERGENCY

The Attorney General or his designee shall serve as CPO for purposes of the

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

Code, and may conduct any or all procurements for the OAG. The CPO may appoint one or more SPOs to conduct procurements on behalf of the CPO in accordance with conditions specified in the terms of the appointment.

Section 1300.1010 Construction

EMERGENCY

Any construction or construction related professional and artistic services in excess of \$30,000 necessary for the OAG will be procured by the CPO of the Capital Development Board or of DCMS. Any request for such services will be submitted to the CPO-CDB or CPO-DCMS in accordance with CDB or DCMS rules. In the event of an emergency, the CPO may arrange for such construction as is necessary to protect the property and records of the OAG pending the making of arrangements with the CDB or DCMS.

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section 1300.1510 Publicizing Procurement Actions

EMERGENCY

Notice of any procurement action required by the Code to be publicized in the Illinois Procurement Bulletin will be forwarded to DCMS for inclusion in the appropriate volume of the Bulletin.

Section 1300.1560 Supplemental Notice

EMERGENCY

The OAG may place ads in the Official State Newspaper selected by DCMS or other publications to supplement notice in the Bulletin.

Section 1300.1570 Error in Notice

EMERGENCY

When a required publication contains an error, the error may be corrected by a single notice published in the Bulletin.

Section 1300.1580 Direct Solicitation

EMERGENCY

In addition to giving notice in the Bulletin, the OAG may directly contact prospective vendors. Direct solicitation may be oral or in writing, but care will be taken to ensure that all vendors solicited in this manner receive the same information. When making direct solicitations, at least three vendors will be contacted.

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION - GENERAL

Section 1300.2005 General Provisions

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

EMERGENCY

- a) Late Bids or Proposals, Late Withdrawals and Late Modifications
- 1) Definition. Any bid or proposal received after the time, date and place set for receipt is late. Any withdrawal or modification of a bid or proposal received after the time and date set for opening of bids or proposals at the place designated for opening is late.
 - 2) Treatment. No late bid or proposal, late modification, or late withdrawal will be considered unless it is received before contract award, and the bid, proposal, modification, or withdrawal would have been timely but for the action or inaction of OAG personnel directly serving the procurement activity.
 - 3) Records. Records shall be made and kept for each late bid or proposal, late modification, or late withdrawal.
 - 4) Any other submission that has a time or date deadline shall be treated in the same manner as a late bid.
- b) Extension of Time
- 1) The date or time for submitting a bid or proposal or modifying or withdrawing a bid or proposal may be extended by the CPO or SPO prior to such date or time for the convenience of the OAG. Reasons for extension include but are not limited to allowing additional time for submissions to account for inclement weather, labor strikes, accidents and other such reasons.
 - 2) After opening bids or proposals, the CPO or SPO may request bidders or offerors to extend the time during which the OAG may accept bids or proposals, provided that, with regard to bids, no other change is permitted. The reasons for requesting such extension shall be documented.
- c) Electronic and Facsimile Submissions
- 1) The Invitation for Bids or Request for Proposals may state that electronic and facsimile machine submissions will be considered if they are received at the designated office by the time and date set for receipt. Any required attachments will be submitted as stated in the Invitation for Bids or Request for Proposals.
 - 2) Electronic submissions will be opened in accordance with electronic security measures in effect at the time of opening. Unless the electronic submission procedures provide for a secure receipt, vendor assumes risk of premature disclosure due to submission in unsealed form.
 - 3) Fax submissions will be placed in a sealed container upon receipt and opened as other submissions. Vendor assumes risk of premature disclosure due to submission in unsealed form.
- d) Intent to Submit
- The Invitation for Bids or the Request for Proposals may require that vendors submit, by a certain time and date, a notice of their intent to submit a bid or proposal in response to the Invitation for Bids or Request for Proposals. Bids and proposals submitted without complying

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

- e) with the notice of intent requirement shall be rejected.
- Only One Bid or Proposal Received
- If only one responsive bid is received, or if only one proposal is received, an award may be made to the single bidder or offeror if the CPO or SPO finds that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond, or there is not adequate time for resolicitation. Otherwise:
- 1) new bids or offers may be solicited;
 - 2) the procurement may be cancelled; or
 - 3) if the CPO or SPO determines in writing that the need for the supply or service continues, but that the price of the one bid is not fair and reasonable and there is no time for resolicitation or resolicitation would likely be futile, the procurement may then be conducted with any vendor under Section 1300.2025 (Sole Source Procurement) or Section 1300.2030 (Emergency Procurements), as appropriate. The CPO or SPO shall also attempt to negotiate the price offered by the single bidder to an acceptable level.
- f) Alternate or Multiple Bids or Proposals
- 1) Alternate bids or proposals may be accepted if:
 - A) permitted by the solicitation and in accordance with instructions in the solicitation;
 - B) only one vendor responded, in which case the alternate submission(s) may be evaluated and treated in accordance with Section 1300.2025 (Sole Source Procurement) of this Part;
 - C) the low bidder, who has met all requirements of the solicitation, has provided a lower cost alternative that meets all of the material requirements of the specifications; or
 - D) a vendor clearly indicates a base submission, then that base submission shall be considered for award as though it were the only bid or proposal submitted by the vendor.
 - 2) Multiple bids or proposals may be accepted if:
 - A) permitted by the solicitation and in accordance with instructions in the solicitation; or
 - B) only one vendor responded, then one or more of the submissions may be evaluated, provided that in the case of bids, only the lowest cost bid meeting specifications may be considered.
- g) Multiple Items
- An Invitation for Bids or Request for Proposals may call for pricing of multiple items of similar or related type with award based on individual line item, group total of certain items, or grand total of all items.
- h) "All or None" Bids or Proposals
- "All or none" bids or proposals may be accepted if the evaluation shows an "all or none" award to be the lowest cost or best value of

ATTORNEY GENERAL

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

NOTICE OF EMERGENCY RULES

those submitted. Factors to be used to determine the State's best interest include but are not limited to whether the bid is the lowest of those submitted, reasonableness of the price and the cost and time necessary to solicit other bids.

i) Conditioning Bids or Proposals Upon Other Awards
Any bid or proposal that is conditioned upon receiving award of the particular contract being solicited and one or more other State contracts shall:

- 1) be rejected unless the vendor removes the condition; or
- 2) be evaluated and award made to that vendor if the vendor is also independently evaluated as the winner of the other Invitation for Bids or Request for Proposals provided the agency need not delay procurement actions to accommodate the vendor's "all or none" condition.

j) Unsolicited Offers

- 1) Defined. An unsolicited offer is any offer other than one submitted in response to a solicitation.
- 2) Processing of Unsolicited Offers. The CPO or SPO may consider unsolicited offers and shall have final authority with respect to evaluation, acceptance and rejection of such unsolicited offers.
- 3) Conditions for Consideration. An unsolicited offer must be in writing and must be sufficiently detailed to allow a judgment to be made concerning the potential utility of the offer to the OAG.
- 4) Evaluation. The unsolicited offer may be evaluated to determine its utility to the State and whether it would be to the State's advantage to enter into a contract based on such offer. An unsolicited offer which meets the requirements set forth above may be considered for award if the procurement also meets the requirements of Section 1300.2025 (Sole Source Procurement) or Section 1300.2020 (Small Purchases), in which case those procedures shall be followed as applicable.
- 5) Confidentiality. Any request for confidentiality of data contained in an unsolicited offer must be made in writing. If an award is made, confidentiality of data shall be agreed upon by the parties and governed by the provisions of the contract. If agreement cannot be reached on confidentiality, the OAG shall reject the unsolicited offer.

k) Clarification of Bids and Proposals
The CPO or SPO may request that a vendor clarify its bid or proposal as a part of the evaluation process. A vendor shall not be allowed to change its bid or proposal in response to a request for clarification.

l) Extension of Time on Indefinite Quantity Contracts
The time of performance of an indefinite quantity contract may be extended upon agreement of the parties, provided the extension is for 90 days or less and the CPO or the SPO determines in writing that it is not practical to award another contract at the time of such extension.

m) Increase in Quantity on Definite Quantity Contracts

The quantity that may be ordered from a definite quantity contract may be increased by up to 20% provided the CPO or SPO determines that separate bidding for the additional quantity is not likely to achieve lower pricing. The quantity may be increased by any percentage provided the dollar value of the increase does not exceed the small purchase threshold applicable to the type of goods or service.

n) Novation or Change of Name

- 1) Assignment. No OAG contract is transferable, or otherwise assignable, without the written consent of the CPO or the SPO, provided, however, that a vendor may assign monies receivable under a contract after due notice to the OAG. Assignment may require the execution of a contract with the assignee and in such cases the assignee must meet all requirements for contracting with the OAG.

2) Recognition of a Successor in Interest; Novation. When in the best interest of the State, a successor in interest may be recognized in a novation agreement in which the transferor and the transferee shall agree that:

- A) the transferee assumes all of the transferor's obligations;
 - B) the transferee meets all requirements for contracting with the OAG;
 - C) the transferor waives all rights under the contract as against the OAG; and
 - D) unless the transferor guarantees performance of the contract by the transferee, the transferee shall, if required by the OAG, furnish a satisfactory performance bond.
- 3) Change of Name. When a vendor requests to change the name in which it holds a contract with the OAG, the CPO or SPO responsible for the contract shall, upon receipt of a document indicating such change of name, enter into an agreement with the requesting vendor to effect such a change of name. The agreement changing the name shall specifically indicate that no other terms and conditions of the contract are thereby changed.
- 4) Reports. All change of name or novation agreements effected under this subsection (n) other than by the CPO shall be reported to the CPO within 30 days after the date that the agreement becomes effective.

- o) Contracting for Installment Purchase Payments, Including Interest
Contracts may provide for installment purchase payments, including interest charges, over a period of time. The interest rate may not exceed that established by law, including 30 ILCS 305.

Section 1300.2010 Competitive Sealed Bidding EMERGENCY

a) Application

Competitive sealed bidding is the required method of source selection except as allowed by the Code and this Part. The provisions of this

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

Section apply to every procurement required to be conducted by competitive sealed bidding.

- b) The Invitation for Bids
 - 1) Use. The Invitation for Bids is used to initiate a competitive sealed bid procurement.
 - 2) Content. The Invitation for Bids shall include, at a minimum, the following:
 - A) instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the office to which bids are to be delivered, the maximum time for bid acceptance by the State, and any other special information such as the time and place of any pre-bid conference;
 - B) the purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description; and
 - C) the contract terms and conditions, including warranty and bonding or other security requirements, as applicable.
- 3) Incorporation by Reference. The Invitation for Bids may incorporate documents by reference provided that the Invitation for Bids specifies where such documents can be obtained.
- c) Bidding Time

Bidding time is the period of time between the date of notice or distribution of the Invitation for Bids and the time and date set for receipt of bids. In each case, bidding time will be set to provide bidders a reasonable time to prepare their bids. A minimum of 14 days shall be provided unless a shorter time is allowed in this Part.
- d) Bidder Submissions
 - 1) Bid Form. The Invitation for Bids shall provide a form that shall include space in which the bid price shall be inserted and that the bidder shall sign and submit along with all other necessary submissions.
 - 2) Bid Samples and Descriptive Literature
 - A) Bid samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the items bid.
 - B) Unsolicited bid samples or descriptive literature are submitted at the bidder's risk, may not be examined or tested, will not be deemed to vary any of the provisions of the Invitation for Bids, and may not be utilized by the vendor to contest a decision or understanding with the State.
- e) Public Notice
 - 1) Publication. Every procurement for goods and services in excess of \$10,000 that must be procured using an Invitation for Bids shall be published in the Illinois Procurement Bulletin.
 - 2) Publication in the Bulletin may be supplemented by publication

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

elsewhere at the discretion of the SPO. Examples include publication in:

- A) the Official State Newspaper;
 - B) a newspaper of general circulation;
 - C) a newspaper of local circulation in the area pertinent to the procurement; or
 - D) industry media.
- 3) Public Availability. A copy of the Invitation for Bids shall be made available for public inspection.
 - 4) Distribution. Invitations for Bids or Notices of the Availability of Invitations for Bids may be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing competition. Notices of Availability shall indicate where invitations for Bids may be obtained; generally describe the supply or service desired; and indicate the due date for bids; and may contain other appropriate information such as pre-bid conference data. Where appropriate, the CPO or SPO may require payment of a fee or a deposit for the supplying of the Invitation for Bids.
 - f) Pre-Bid Conferences

Pre-bid conferences may be conducted to enhance understanding of the procurement requirements. They shall be announced to all prospective bidders known to have received an Invitation for Bids. The conference may be designated as attendance mandatory or attendance optional. The conference should be held long enough after the Invitation for Bids has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparation of bids. Nothing stated in the pre-bid conference shall change the Invitation for Bids unless a change is made by written amendment to the Invitation for Bids. Minutes of the conference shall be supplied to all those prospective bidders known to have received an Invitation for Bids. If the conference is mandatory, the minutes shall be supplied to attendees only.
 - g) Amendments to Invitations for Bids
 - 1) Form. Amendments to Invitations for Bids shall be identified as such and shall require that the bidder acknowledge receipt of all amendments issued. The amendment shall reference the portions of the Invitation for Bids it amends.
 - 2) Distribution. Amendments shall be sent to all prospective bidders known to have received an Invitation for Bids.
 - 3) Timeliness. Amendments shall be distributed within a reasonable time to allow prospective bidders to consider them in preparing their bids. If the time and date set for receipt of bids will not permit such preparation, the amendment shall extend the response time. If necessary, the response time may be extended by fax or telephone and confirmed in the amendment.
 - h) Pre-Opening Modification or Withdrawal of Bids

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

1) Procedure. Bids may be modified or withdrawn by written notice received in the office designated in the Invitation for Bids prior to the time and date set for bid opening. A fax modification or withdrawal, or withdrawal received by telephone prior to the time and date set for bid opening, will be effective if followed in writing.

2) Disposition of Bid Security. If a bid is withdrawn in accordance with this Section, the bid security, if any, shall be returned to the bidder.

3) Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.

i) Receipt, Opening and Recording of Bids

1) Receipt. Upon its receipt, each bid and modification shall be time-stamped but not opened and shall be stored in a secure place until the time and date set for bid opening. If a bid is opened in error, the file shall so state.

2) Opening and Recording

A) Bids and modifications shall be opened publicly, in the presence of one or more witnesses, at the time, date, and place designated in the Invitation for Bids. The name of each bidder, the bid price, and such other information as is deemed appropriate by the CPO or SPO, shall be recorded and the name of each bidder read aloud or otherwise made available. The names of required witnesses shall also be recorded at the opening.

B) The winning bid shall be available for public inspection after award, along with the record of the other bids.

3) Confidential Data. The CPO or SPO shall examine the bids to determine the validity of any requests for nondisclosure of trade secrets and other proprietary data identified in writing. If the parties do not agree as to the disclosure of data or other information, the bid shall be rejected as nonresponsive.

j) Bid Evaluation and Award

1) General. The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids, except as permitted in this Section. The Invitation for Bids shall set forth the requirements and criteria that will be used to determine the lowest responsive bidder. No bid shall be evaluated for any requirements or criteria that are not disclosed in the Invitation for Bids.

2) Responsibility. Responsibility of prospective contractors is covered by Section 1300.2046 (Responsibility) of this Part.

3) Responsiveness. Section 15-85 of the Illinois Procurement Code defines responsive bidder as a person who has submitted a bid that conforms in all material respects to the Invitation for Bids.

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

A) Product or Service Acceptability. The Invitation for Bids shall set forth any evaluation criteria to be used in determining product or service acceptability. It may require the submission of bid samples, descriptive literature, technical data, references, licenses, or other information or material. It may also provide for accomplishing any of the following prior to award:

i) inspection or testing of a product or service prior to award for such characteristics as quality or workmanship;

ii) examination of such elements as appearance, finish, taste, or feel; or

iii) other examinations to determine whether it conforms with any other purchase description requirements.

B) The acceptability evaluation is not conducted for the purpose of determining whether one bidder's product or service capability is superior to another, but only to determine that a bidder's offering is acceptable as set forth in the Invitation for Bids. Any bidder's offering which does not meet the acceptability requirements shall be rejected.

4) Determination of Lowest Bidder. Following determination of product or service acceptability as set forth in this subsection (j), bids will be evaluated to determine which bidder offers the lowest cost to the OAG in accordance with the evaluation criteria set forth in the Invitation for Bids. Only objectively measurable criteria that are set forth in the Invitation for Bids shall be applied in determining the lowest bidder. Examples of such criteria include, but are not limited to, transportation cost and ownership or life-cycle cost formulas. While evaluation factors need not be precise predictors of actual future costs, they should be, to the extent possible, reasonable estimates based upon information the OAG has available concerning future use and shall provide for equitable treatment of all bids. Pricing for optional goods or services or for renewal terms may be considered particularly when the pricing for such items or terms is unbalanced when compared to other pricing in the bid.

5) Price Negotiation. This Section permits negotiations with the low bidder to obtain a lower price for the item bid.

k) Documentation of Award
Following award, a record showing the successful bidder shall be made a part of the procurement file.

1) Award to Other Than Low Bidder
The CPO or SPO may award to other than the lowest responsible and responsive bidder upon a written determination that award to another bidder is in the State's best interest. Factors used to determine the State's best interest include but are not limited to the quality of goods or services, responsibility of the bidder pursuant to Section

ATTORNEY GENERAL

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

NOTICE OF EMERGENCY RULES

1300.2046 of this Part, any proposed conditions or options and preferences set forth at Subpart 0 of this Part. The name of the bidder selected, pricing, and the reasons for selecting this bidder instead of the low bidder must be published in the Bulletin.

m) Publicizing Award

The successful bidder shall be notified of award and such notification may be in the form of a letter, purchase order or other clear communication. In procurements over the small purchase limit set in Section 1300.2020 of this Part, notice of award shall be published in the Bulletin.

Section 1300.2012 Multi-Step Sealed Bidding
EMERGENCY

a) Definition. Multi-step sealed bidding is a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the OAG, and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase, have their price bids considered.

b) Conditions for Use. The multi-step sealed bidding method may be used when it is not practical to prepare initially a definitive purchase description which will be suitable to permit an award based on price. Multi-step sealed bidding may be used when it is considered desirable:

- 1) to invite and evaluate possible diverse technical offers to determine their acceptability to fulfill the purchase description requirements; and
- 2) to conduct discussions for the purposes of facilitating understanding of the technical offer and purchase description requirements and, where appropriate, obtain supplemental information, permit amendments of technical offers, or amend the purchase description.

c) Pre-Bid Conferences in Multi-Step Sealed Bidding

Prior to the submission or evaluation of unpriced technical offers, a pre-bid conference as contemplated by Section 1300.2010 (Competitive Sealed Bidding) and Section 1300.2012 (Multi-Step Sealed Bidding) may be conducted by the CPO or SPO.

d) Procedure for Phase One of Multi-Step Sealed Bidding

- 1) Form. Multi-step sealed bidding shall be initiated by the issuance of an Invitation for Bids in the form required by Section 1300.2010 (Competitive Sealed Bidding), except as hereinafter provided. In addition to the requirements set forth in Section 1300.2010, the multi-step Invitation for Bids shall state:

A) that unpriced technical offers are requested;

B) whether priced bids are to be submitted at the same time as unpriced technical offers and, if they are, that such priced bids shall be submitted in a separate sealed envelope;

- C) that it is a multi-step sealed bid procurement, and priced bids will be considered only in the second phase and only from those bidders whose unpriced technical offers are found acceptable in the first phase;
- D) the criteria to be used in the evaluation of the unpriced technical offers;
- E) that the OAG, to the extent the CPO or SPO finds necessary, may conduct oral or written discussions of the unpriced technical offers; and
- F) that the item being procured shall be furnished generally in accordance with the bidder's technical offer as found to be finally acceptable and shall meet the requirements of the Invitation for Bids.

2) Amendments to the Invitation for Bids. After receipt of unpriced technical offers, amendments to the Invitation for Bids shall be distributed only to bidders who submitted unpriced technical offers, and they shall be permitted to submit new unpriced technical offers or to amend those submitted. If, in the opinion of the CPO or SPO, a contemplated amendment will significantly change the nature of the procurement, the Invitation for Bids shall be cancelled in accordance with Section 1300.2040 (Cancellation of Solicitation; Rejection of Bids or Proposals) of this Part and a new Invitation for Bids issued.

3) Receipt and Handling of Unpriced Technical Offers. Unpriced technical offers submitted by bidders shall be opened in the presence of at least one witness. Such offers shall not be disclosed to unauthorized persons. Bidders may request nondisclosure of trade secrets and other proprietary data identified in writing.

4) Evaluation of Unpriced Technical Offers. The unpriced technical offers submitted by bidders shall be evaluated solely in accordance with the criteria set forth in the Invitation for Bids. The unpriced technical offers shall be categorized as:

- A) acceptable;
 - B) potentially acceptable, that is, reasonably susceptible of being made acceptable; or
 - C) unacceptable, in which case the CPO or SPO shall record in writing the basis for finding an offer unacceptable and make it part of the procurement file.
- 5) The CPO or SPO may initiate Phase Two of the procedure if, in the CPO's or SPO's opinion, there are sufficient acceptable unpriced technical offers to assure effective price competition in the second phase without technical discussions. If the CPO or SPO finds that such is not the case, the CPO or SPO may commence discussions of the unpriced technical proposals.
- 6) Discussion of Unpriced Technical Offers. The CPO or SPO may conduct discussions with any vendor who submits an acceptable or potentially acceptable technical offer. During the course of

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

such discussions the CPO or SPO shall not disclose any information derived from one unpriced technical offer to any other bidder. Any such bidder may submit supplemental information amending its technical offer at any time until the closing date established by the CPO or SPO. Such submission may be made at the request of the CPO or SPO or upon the bidder's own initiative.

- 7) Unacceptable Unpriced Technical Offer. When the CPO or SPO determines a bidder's unpriced technical offer to be unacceptable, such offeror shall not be afforded an additional opportunity to supplement its technical offer.

e) Procedure for Phase Two

- 1) Initiation. Upon the completion of Phase One, the CPO or SPO shall either:
 - A) open priced bids submitted in Phase One (if priced bids were required to be submitted) from bidders whose unpriced technical offers were found to be acceptable; or
 - B) if priced bids have not been submitted, invite each acceptable bidder to submit a priced bid.
- 2) Conduct. Phase Two shall be conducted as any other competitive sealed bid procurement except:
 - A) no public notice need be given of this invitation to submit priced bids because such notice was previously given;
 - B) after award, the unpriced technical offer of the successful bidder shall be disclosed as follows: The CPO or SPO shall examine written requests of confidentiality for trade secrets and proprietary data in the technical offer of such bidder to determine the validity of any such requests. If the parties do not agree as to the disclosure of data, the CPO or SPO shall reject the offer. Such technical offer shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data; and
 - C) unpriced technical offers of bidders who are not awarded the contract shall not be open to public inspection.

Section 1300.2015 Competitive Sealed Proposals
EMERGENCY

- a) Competitive Sealed Proposals may be used whenever permitted by the Code and as described in this Part.
- b) The Competitive Sealed Proposal method of source selection may be used to procure the following categories:
 - 1) electronic data processing equipment, software, and services;
 - 2) telecommunications equipment, software, and services;
 - 3) consulting services; and
 - 4) employee benefits and insurance.
- c) Competitive Sealed Proposals may be used on a case-by-case basis when it is determined by the CPO or SPO that competitive sealed bidding is

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

either not practicable or advantageous.

- 1) "Practicable" Distinguished from "Advantageous." As used in Section 20-15 (Competitive Sealed Proposals) of the Illinois Procurement Code and this Section, the term "practicable" denotes what may be accomplished or put into practical application, and "advantageous" connotes a judgmental assessment of what is in the State's best interest. Competitive sealed bidding may be practicable, that is, reasonably possible, but not necessarily advantageous, that is, in the State's best interest. Before a contract may be entered into by competitive sealed proposals, the CPO or SPO shall determine in writing that competitive sealed bidding is either not practicable or not advantageous to the OAG.

2) General Discussion

- A) If competitive sealed bidding is not practicable or is not advantageous, competitive sealed proposals should be used.
- B) The key element in determining relative advantage is the need for flexibility. The competitive sealed proposal method differs from competitive sealed bidding in two important ways:
 - i) it permits discussions with competing offerors and changes in their proposals, including price; and
 - ii) it allows comparative judgmental evaluations to be made when selecting among acceptable proposals for award of the contract.
- C) Where evaluation factors involve the relative abilities of offerors to perform, including degrees of experience or expertise, where the types of supplies or services may require the use of comparative, judgmental evaluations to evaluate them adequately, or where the type of need to be satisfied involves weighing aesthetic values to the extent that price is a secondary consideration, use of competitive sealed proposals is the appropriate procurement method.

- 3) When Competitive Sealed Bidding Is Not Practicable. Competitive sealed bidding is not practicable unless the nature of the procurement permits award to a low bidder who agrees by its bid to perform without condition or reservation in accordance with the purchase description, delivery or performance schedule, and all other terms and conditions of the Invitation for Bids. Factors to be considered in determining whether competitive sealed bidding is not practicable include:
 - A) whether the contract needs to be other than a fixed-price type;
 - B) whether oral or written discussions may need to be conducted with offerors concerning technical and price aspects of their proposals;
 - C) whether offerors may need to be afforded the opportunity to revise their proposals, including price;
 - D) whether award may need to be based upon a comparative

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

evaluation as stated in the Request for Proposals of differing price, quality (which includes technical and performance capability and the content of the technical proposal), and contractual factors in order to determine the most advantageous offering to the OAG; and

E) whether the primary consideration in determining award may not be price.

- 4) When Competitive Sealed Bidding Is Not Advantageous. A determination may be made to use competitive sealed proposals if it is determined that it is not advantageous to the OAG, even though practicable, to use competitive sealed bidding. Factors to be considered in determining whether competitive sealed bidding is not advantageous include:

- A) whether prior procurements indicate that competitive sealed proposals may result in more beneficial contracts for the OAG; and
- B) whether the factors listed in subsection (c)(3) of this Section are desirable in conducting a procurement rather than necessary.

- d) Content of the Request for Proposals

The Request for Proposals shall be prepared in accordance with Section 1300.2010 (Competitive Sealed Bidding) provided that it shall also include:

- 1) a statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award, but that proposals may be accepted without such discussions; and
- 2) a statement of when and how price should be submitted.

- e) Receipt and Registrations of Proposals

Proposals shall not be opened publicly but shall be opened in the presence of at least one witness. Proposals and modifications shall be time-stamped upon receipt and held in a secure place until the established due date. After the date established for receipt of proposals, a Register of Proposals shall be prepared which shall include for all proposals the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the supply or service item offered. The Register of Proposals shall be open to public inspection after award of the contract.

- f) Evaluation of Proposals

- 1) Evaluation Factors in the Request for Proposals. The Request for Proposals shall state all of the evaluation factors, including price, and their relative importance.
- 2) Evaluation. The evaluation shall be based on the evaluation factors set forth in the Request for Proposals. Factors not specified in the Request for Proposals shall not be considered. Numerical rating systems may be used but are not required.
- 3) Classifying Proposals. For the purpose of conducting

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

discussions, proposals shall be initially classified as:

- A) acceptable;
- B) potentially acceptable, that is, reasonably susceptible of being made acceptable; or
- C) unacceptable.

- 4) Offerors whose proposals are unacceptable shall be so notified promptly.

- g) Proposal Discussions with Individual Offerors

- 1) "Offerors" Defined. For the purposes of Section 20-15(f) (Competitive Sealed Proposals, Discussion with Responsible Offerors and Revisions of Proposals) of the Illinois Procurement Code and this Section, the term "offerors" includes only those businesses submitting proposals that are acceptable or potentially acceptable. The term shall not include businesses who submitted unacceptable proposals.

- 2) Purposes of Discussions. Discussions are held to:

- A) promote understanding of the OAG's requirements and the offerors' proposals; and
- B) facilitate arriving at a contract that will be most advantageous to the OAG, taking into consideration price and the other evaluation factors set forth in the Request for Proposals.

- 3) Conduct of Discussions. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. If during discussions there is a need for any substantial clarification of, or change in, the Request for Proposals, the Request shall be amended to incorporate such clarification or change. Auction techniques (revealing one offeror's price to another) and disclosure of any information derived from competing proposals are prohibited. Any substantial oral clarification of a proposal shall be reduced to writing by the offeror.

- 4) Best and Final Offers. The CPO or SPO may request best and final offers with a common date and time for submission of best and final offers. The CPO or SPO may conduct additional discussions or change the OAG's requirements and require another submission of best and final offers. If an offeror does not submit either a notice of withdrawal or another best and final offer, that offeror's immediate previous offer will be construed as its best and final offer.

- h) Award

An award shall be made by the CPO or SPO pursuant to a written determination showing the basis on which the award was found to be most advantageous to the OAG, based on the factors set forth in the Request for Proposals.

- i) Publicizing Awards

After a contract is entered into, notice of award shall be posted in the CPO's or SPO's office. When the award exceeds the small purchase

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

limit set in Section 1300.2020 of this Part, notice of award shall be published in the Bulletin.

Section 1300.2020 Small Purchases EMERGENCY

- a) Application
Procurements of less than \$10,000 for supplies or services, and less than \$20,000 for professional and artistic services contracts that are for a nonrenewable term of less than one year, may be made without notice, competition or use of any prescribed method of source selection.
- b) In determining whether a contract is under the limit, the value of the contract for the full term and any optional renewals shall be utilized. The stated value of the goods or services, plus any optional goods and services, shall be utilized. Where the term is calculated month-to-month or in a similar fashion, the amount shall be calculated for a twelve month period.
- c) Procurement requirements shall not be artificially divided to avoid using the other source selection methods set forth in Section 20-5 (Methods of Source Selection) of the Illinois Procurement Code or this Part.
- d) If, after signing the contract, the actual need is determined to be \$10,000 or more, and the agency determines that procurement is not appropriate, the procedures for sole source or emergency procurement, whichever is applicable, must be complied with to obtain the additional supplies or services.

Section 1300.2025 Sole Source Procurement EMERGENCY

- a) Application
The provisions of this Section apply to procurement from a sole source unless the estimated amount of the procurement is within the limit set in Section 1300.2020 (Small Purchases) or unless emergency conditions exist as defined in Section 1300.2030 (Emergency Procurements) of this Part.
- b) Conditions for Use of Sole Source Procurement
Sole source procurement is permissible when a requirement is available from only a single supplier or when only one supplier is deemed economically feasible. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror authorized to provide that item. The following are examples of circumstances that could necessitate sole source procurement:
 - 1) where the compatibility of equipment, accessories, replacement parts, or service is a paramount consideration;
 - 2) where a sole supplier's items are needed for trial use or

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

- testing;
- 3) where a sole supplier's item is to be procured for commercial resale;
 - 4) where public utility regulated services are to be procured; or
 - 5) where the item is copyrighted or patented and the item is not available except from the holder of the copyright or patent.
- c) Changes to existing contracts germane to the original contract, which are necessary or desirable to complete the project, and which can be best accomplished by the contract holder, may be procured under this provision.
- d) The determination as to whether a procurement shall be made as a sole source shall be made by the CPO or SPO. Such determination and the basis therefor shall be in writing. Such officer may specify the application of such determination and the duration of its effectiveness. Any request to the CPO that a procurement be restricted to one potential contractor shall be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need.
- e) The OAG, having defined a sole source, shall publish notice of intent to contract with that vendor in the Bulletin at least 14 days prior to execution of the contract.
- 1) If no challenge to this determination is made by a vendor within the 14-day period, the CPO or SPO may execute a contract with that vendor.
 - 2) If a challenge is received, the CPO or SPO shall consider the information and shall commence a competitive procurement if the CPO or SPO is convinced the sole source designation is not appropriate, unless an emergency situation now exists.
- f) Negotiation in Sole Source Procurement
The CPO or SPO shall conduct negotiations, as appropriate, as to price, delivery, and terms, and shall maintain a record of sole source procurements showing:
 - 1) the vendor's name;
 - 2) the amount and type of the contract;
 - 3) a listing of the supplies, services, or construction procured under each contract; and
 - 4) the identification number of the contract file.

Section 1300.2030 Emergency Procurements EMERGENCY

- a) Applications
The provisions of this Section apply to every procurement over the small purchase limit set in Section 1300.2020 of this Part made under emergency conditions.
- b) Definition of Emergency Conditions
 - 1) A procurement may be made under this Section in situations in which:

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

- A) public health or safety, including the health or safety of any particular person, is threatened;
 - B) repairs are needed to OAG property to protect against further loss or damage to OAG property, or to prevent loss or damage to OAG property;
 - C) action is needed to prevent or minimize serious disruption in OAG services;
 - D) action is needed to ensure the integrity of State or OAG records;
 - E) a supplier of needed goods or services announces bankruptcy, going out of business, or loss of franchise, or gives other similar reason such that making a purchase immediately is in the State's best interest;
 - F) commodity items are available on the spot market at prices such that good business judgment mandates a purchase if the spot price must be taken immediately;
 - G) legal services to assist in the formulation of policy, in drafting or evaluating documents, or in determining the extent of statutory authority are needed sooner than the competitive process would allow; or
 - H) equipment or services are necessary in the furtherance of covert activities lawfully conducted by the OAG. Any required disclosures shall be made so as not to jeopardize those covert activities.
- 2) After Unsuccessful Competitive Sealed Bidding or Proposals or Request for Proposals. When bids or proposals received pursuant to a competitive sealed bid or competitive sealed proposal method are unreasonable or noncompetitive, or the price exceeds available funds, and time or other circumstances will not permit the delay required to resolicit competitive sealed bids or proposals, and if emergency conditions exist after an unsuccessful attempt to use competitive sealed bidding, an emergency procurement may be made.
- c) Scope of Emergency Conditions
Emergency procurement shall be limited to those supplies, services, or construction items necessary to meet the emergency.
 - d) Authority to Make Emergency Procurements
Emergency procurements may be made when an emergency condition arises and the need cannot be met through normal procurement methods, provided that, whenever practical, existing OAG contracts shall be utilized and, whenever practical, approval by the CPO shall be obtained prior to the procurement. The CPO or SPO shall be responsible for making the filings required in Section 20-30 of the Code.
 - e) Source Selection Methods
Any method of source selection, whether or not identified in the Code or this Part, may be used to conduct the procurement in emergency situations. The procedure used shall be selected to assure that the

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

- required supplies, services, or construction items are procured in time to meet the emergency. Such competition as is practicable shall be obtained.
- f) Determination and Record of Emergency Procurement
 - 1) Determination. The CPO or SPO responsible for procurement shall make a written determination stating the basis for an emergency procurement and for the selection of the particular contractor. Such determinations shall be kept in the contract file with a copy sent promptly to the CPO.
 - 2) Record. A record of each emergency procurement shall be made as soon as practicable and shall include the following information:
 - A) the vendor's name;
 - B) the amount and type of the contract, provided that, if only an estimate of the amount is available immediately, the record shall be supplemented with the final amount once known;
 - C) a description of what the vendor will do or provide, such as a listing of the supplies and services to be procured; and
 - D) the reasons for using the emergency method of source selection.
 - 3) Notice of the emergency procurement shall be published in the Bulletin in accordance with Subpart D of this Part.

Section 1300.2035 Competitive Selection Procedures EMERGENCY

a) Application

The provisions of this Section apply to every procurement of professional and artistic services except those professional and other services necessary to prepare for anticipated litigation, enforcement actions or investigations, which are exempt from the requirements of the Code and this Part. "Professional and artistic services" means those services provided under contract to a State agency by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability [30 ILCS 500/1-15.60].

- b) Professional and artistic services are further defined as follows:
 - 1) "Qualified by education" means the individual who would perform the services must have obtained the level of education specified in the Request for Proposals.
 - 2) "Qualified by experience" means the individual who would perform the services must have the level of general experience specified in the Request for Proposals.
 - 3) "Qualified by technical ability" means the individual who would perform the services must demonstrate a high degree of skill or ability in performing services that are the same, similar or closely related in nature to those specified in the Request for Proposals.
 - 4) An essential element distinguishing professional and artistic

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

services from other services is confidence, trust, and belief in not only the ability, but the talent, of the individual performing the service. These services are primarily for intellectual or creative skills. Contracts for services primarily involving manual skills or labor are not professional and artistic services contracts. (See Illinois Attorney General Opinion S-256, January 20, 1971.)

- 5) If the professional or artistic contract is with a firm or other business entity, the individuals whose education, experience and technical ability provided the basis on which the firm or other business entity was selected must meet the qualifications.
- 6) When a State agency requires services that meet the requirements of this subsection (b), the competitive selection procedures described in this Section must be followed. Services that do not meet the requirements of this Section must be procured in accordance with other methods of source selection authorized by the Code and this Part.

- c) The categories of services enumerated below shall be considered and procured as professional and artistic services. With regard to other services, the SPO may determine whether the factors identified in subsection (b), when applied to particular services to be procured, require such services to be procured as professional and artistic under these competitive selection procedures, or as services that are subject to one of the other methods of source selection authorized by the Code and this Part. The following categories are examples of disciplines that would always be professional and artistic services:

- 1) law;
- 2) accounting;
- 3) medicine;
- 4) dentistry; and
- 5) clinical psychology.

- d) Conditions for Use of Competitive Selection Procedures
Except as authorized under Section 20-25 (Sole Source Procurement) or Section 20-30 (Emergency Procurements) of the Illinois Procurement Code, these competitive selection procedures shall be used for all procurements of professional and artistic services of \$20,000 or more. Any procurement of such services in an amount of less than \$20,000 and for a nonrenewable term of less than one year may be procured in accordance with Section 1300.2020 (Small Purchases) of this Part.

- e) Determinations Required Prior to Use of Competitive Selection Procedures

The CPO shall determine in writing, prior to announcing the need for any such services:

- 1) that the services to be acquired are professional or artistic;
- 2) the nature of the relationship to be established between the OAG and the vendor by the proposed contract; and
- 3) that the OAG has developed, and fully intends to implement, a written plan for utilizing such services which will be included

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

in the contractual statement of work.

- f) Prequalification
The CPO shall maintain a list of prequalified professional and artistic vendors in accordance with Sections 1300.2044 and 1300.2045 of this Part. Persons may amend statements of qualifications at any time by filing a new statement.
- g) Public Notice in Competitive Selection Procedures
Notice of the need for professional and artistic services shall be made by the CPO or SPO in the form of a Request for Proposals. Adequate public notice shall be given as provided in Section 1300.2010 (Competitive Sealed Bidding, Public Notice), and additionally may consist of distributing Requests for Proposals to prequalified persons interested in performing the services required by the proposed contract.
- h) Request for Proposals
The Request for Proposals shall be in the form specified by the CPO and contain at least the following information:

- 1) Contents. The Request for Proposals shall be in the form specified by the CPO and contain at least the following information:
 - A) the type of services required;
 - B) a description of the work involved;
 - C) an estimate of when and for how long the services will be required;
 - D) the type of contract to be used;
 - E) a date by which proposals for the performance of the services shall be submitted;
 - F) a statement of the minimum information that the proposal shall contain, which shall include:
 - i) the name of the offer or, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract;
 - ii) if deemed relevant by the CPO or SPO, the age of the offeror's business and average number of employees over a previous period of time, as specified in the Request for Proposals;
 - iii) the abilities, qualifications, and experience of all persons who would be assigned to provide the required services;
 - iv) a listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of time, as specified in the Request for Proposals;
 - v) a plan giving as much detail as is practical explaining how the services will be performed;
- G) price (to be submitted in a separate envelope in the proposal package and not mentioned elsewhere in the proposal package); and

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

H) the factors to be used in the evaluation and selection process and their relative importance.

- 2) Evaluation. Proposals shall be evaluated only on the basis of evaluation factors stated in the Request for Proposals. Price will not be evaluated until after selection of the most qualified vendor. The relative importance of the evaluation factors will vary according to the type of services being procured. The minimum factors are:

- A) the plan for performing the required services;
- B) ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;
- C) the personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting; and
- D) a record of past performance of similar work.

- i) Pre-Proposal Conferences. As appropriate, may be conducted in accordance with Section 130.2010 (Competitive Sealed Bidding).
- j) Receipt and Handling of Proposals

Registration. Proposals and modifications shall be sent to the CPO or SPO as directed in the solicitation and shall be time-stamped upon receipt and held in a secure place until the established due date and time, at which time they will be opened by the CPO or SPO. Proposals shall not be opened publicly nor disclosed to unauthorized persons, but shall be opened in the presence of at least one witness. A register of proposals shall be established which shall include, for all proposals, the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the services offered. The register of proposals shall be open to public inspection only after award of the contract.

- k) Request for Nondisclosure of Data
If the offeror selected for award has requested in writing the nondisclosure of trade secrets and other proprietary data so identified, the head of the agency conducting the procurement or a designee of such officer shall examine the request in the proposal to determine its validity prior to entering negotiations. If the parties do not agree as to the disclosure of data in the contract, the CPO or SPO shall reject the proposal.

- l) Discussions
1) Discussions Permissible. The CPO or SPO shall evaluate all proposals submitted and may conduct discussions with any offeror. The purposes of such discussions shall be to:

- A) determine in greater detail such offeror's qualifications; and
- B) explore with the offeror the scope and nature of the

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

required services, the offeror's proposed method of performance, and the relative utility of alternative methods of approach.

- 2) No Disclosure of Information. Discussions shall not disclose any information derived from proposals submitted by other offerors, and the agency conducting the procurement shall not disclose any information contained in any proposals until after award of the proposed contract has been made. The proposal of the offeror awarded the contract shall be open to public inspection.

- m) Selection of the Best Qualified Offerors
After conclusion of validation of qualifications, evaluation, and discussion, the CPO or SPO shall rank the acceptable offerors in the order of their respective qualifications.

- n) Evaluation of Pricing Data

Pricing submitted for all acceptable proposals shall be opened and ranked. If the low price is submitted by the most qualified vendor, negotiation of price shall commence. If the price of the most qualified is not low and if it is under \$25,000, the CPO or SPO may award to that vendor. If the price is over \$25,000, the CPO or SPO must state why the qualifications were deemed more important than price and such determination shall be published in the Bulletin.

- o) Negotiation and Award of Contract

- 1) General. The CPO or SPO shall negotiate a contract with the best qualified offeror for the required services at compensation determined in writing to be fair and reasonable.

- 2) Elements of Negotiation. Contract negotiations shall be directed toward:

- A) making certain that the offeror has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services;
- B) determining that the offeror will make available the necessary personnel and facilities to perform the services within the required time; and
- C) agreeing upon compensation that is fair and reasonable, taking into account the estimated value of the required services, and the scope, complexity, and nature of such services.

- 3) Successful Negotiation of Contract with Best Qualified Offeror.
If compensation, contract requirements, and contract documents can be agreed upon with the best qualified offeror, the contract shall be awarded to that offeror, unless the procurement is cancelled.

- 4) Failure to Negotiate Contract with Best Qualified Offeror.

- A) If compensation, contract requirements, or contract documents cannot be agreed upon with the best qualified offeror, a written record stating the reasons therefor shall be placed in the file and the CPO or SPO shall advise such offeror of the termination of negotiations.

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

B) Upon failure to negotiate a contract with the best qualified offeror, the CPO or SPO may enter into negotiations with the next most qualified offeror, and so on in that manner until an award is made or the procurement is cancelled.

P) Notice of Award

Written notice of award shall be public information and made a part of the contract file. The CPO shall publish the names of the responsible decision makers of the OAG, the successful vendor, a contract reference number or other identifier, and the value of the contract. Publication shall be in the next available issue of the Bulletin.

**Section 1300.2036 Other Methods of Source Selection
EMERGENCY**

a) Split Award

1) An award of a definite quantity requirement may be split between or among two or more contractors. Each portion shall be for a definite quantity and the sum of the portions shall be the total definite quantity required. A split award may be used only when award to more than one bidder or offeror for different amounts of the same item are necessary to obtain the total quantity or the required delivery.

2) The CPO or SPO shall make a written determination setting forth the reasons for the split award, which determination shall be made a part of the procurement file.

b) Multiple Award

1) A multiple award is an award of an indefinite quantity contract to more than one bidder or offeror when the OAG is obligated to order all of its actual requirements from those vendors.

2) A multiple award may be made when award to two or more bidders or offerors for similar products is necessary for adequate delivery, service, or product compatibility. Any multiple award shall be made in accordance with the provisions of Section 1300.2010 (Competitive Sealed Bidding), Section 1300.2015 (Competitive Sealed Proposals), Section 1300.2020 (Small Purchases), and Section 1300.2030 (Emergency Procurements), as applicable. Awards shall not be made for the purpose of simply dividing the business or to select products or suppliers in accordance with user preference unrelated to utility or economy. Any such awards shall be limited to the least number of suppliers necessary to meet the valid requirements of the OAG.

3) The OAG shall reserve the right to take bids separately if a particular quantity requirement arises that exceeds its normal requirement or an amount specified in the contract.

4) If a multiple award is anticipated, the solicitation shall state this fact as well as the criteria for award.

c) Auction

Purchases may be made at auction in accordance with the procedural

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

requirements applicable to the particular auction. Notice and competition is not required and the amount payable shall be the amount bid and accepted plus any required buyer's premium.

d) Non-governmental Joint Purchase

The CPO or SPO may enter into an agreement with a person not eligible for the Governmental Joint Purchasing Act for the joint procurement of anything covered by the Code. Any method of source selection may be used and may be modified or adapted to meet the needs of the non-State entity.

e) Federal Requirements

Requirements of the Code and this Part may be modified or adapted to meet federal requirements.

f) Donations

With approval of the CPO, when the OAG receives a donation that provides the majority of the funding, the OAG may follow any procurement or contracting requirements established as a condition of the donation, but shall follow the Code and this Part to the extent practicable.

**Section 1300.2037 Tie Bids and Proposals
EMERGENCY**

a) Tie bids or proposals are those from responsive and responsible vendors that are identical in price or valuation.

b) Tie bids or proposals will be treated as follows:

- 1) If the tied vendors include only one Illinois resident vendor, the Illinois resident vendor shall be given the award. "Illinois resident vendor" has the meaning given in Section 1300.4510 of this Part. In all other situations, the decision shall be made in accordance with subsections (b)(2) through (5) of this Section. If two or more Illinois resident vendors are tied, award will be made pursuant to subsections (b)(2) through (5).
- 2) If there is a significant difference in responsibility (including ability to provide the service or deliver in the quantity and at the time required), the award will be made to the vendor who is deemed to be the most responsible. A vendor who has had experience in contracting with the State or OAG shall be given additional consideration in determining responsibility if the CPO or SPO determines that dealing with a vendor that has knowledge of State requirements, contracts, job sites, payment practices and such other factors and with which there has been favorable past experience increases the likelihood of successful performance.
- 3) If there is no significant difference in responsibility, but there is a difference in the quality of the goods or services offered, the vendor offering the best quality will be accepted.
- 4) If there is no significant difference in responsibility and no difference in quality of the goods or services offered, the

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

vendor offering the earliest delivery time will be accepted in any case in which the solicitation specified that the needs of the OAG require as early delivery as possible.

- 5) If the bids or proposals are equal in every respect, the award shall be made by lot unless the CPO or SPO determines that splitting the award among two or more of the tied bidders is in the best interest of the State. Awards may be split if all affected bidders agree, if splitting is feasible given the type of goods or service requested, if overall pricing would not increase, if delivery would be better ensured, or if necessary or desirable to promote future competition.

c) Record

Records shall be made of all procurements on which tie bids or proposals are received, showing at least the following information:

- 1) the identification number of the solicitation;
- 2) the supply, service, or construction item; and
- 3) a listing of all the bidders and the prices submitted.

Section 1300.2038 Mistakes

EMERGENCY

a) General

Corrections to bids, proposals or other procurement processes are allowed, but only to the extent not contrary to the best interest of the State or the fair treatment of other bidders.

b) Mistakes Discovered Before Opening

A vendor may correct mistakes discovered before the time and date set for opening by withdrawing or correcting as provided in this Section.

c) Confirmation of Mistake

When the CPO or SPO knows or has reason to conclude that a mistake has been made, such officer shall request the vendor to confirm the information. Situations in which confirmation should be requested include obvious or apparent errors on the face of the document or a price unreasonably lower than the others submitted. If the vendor alleges a mistake, the bid or proposal may be corrected or withdrawn if the conditions set forth in this Section, as applicable, are met.

d) Mistakes in Bids Discovered After Opening but Before Award

This subsection (d) sets forth procedures to be applied in situations in which mistakes in bids are discovered after the time and date set for bid opening but before award.

- 1) Minor informalities. A minor informality or irregularity is one that is a matter of form or pertains to some immaterial or inconsequential defect or variation of a bid from the exact requirement of the Invitation for Bids, the correction or waiver of which would not be prejudicial to the OAG (i.e., the effect on price, quality, quantity, delivery, or contractual conditions is negligible). The CPO or SPO shall waive such informalities or allow the bidder to correct them depending on which is in the

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

best interest of the State. Examples of minor informalities as to form include the failure of a bidder to:

- A) return the number of signed bids required by the Invitation for Bids;
- B) sign the bid, but only if the unsigned bid is accompanied by other material indicating the bidder's intent to be bound, including but not limited to signature on an auxiliary form, submission of a bid guarantee or submission of a signed transmittal letter; or
- C) acknowledge receipt of an amendment to the Invitation for Bids, but only if:
 - i) it is clear from the bid that the bidder received the amendment and intended to be bound by its terms; or
 - ii) the amendment involved had a negligible effect on price, quantity, quality, or delivery.
- 2) Mistakes Where Intended Correct Bid Is Evident. If the mistake and the intended correct bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.
- 3) Mistakes Where Intended Correct Bid Is Not Evident. A bidder may be permitted to withdraw a low bid if:
 - A) a mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
 - B) the bidder submits proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made.
- e) Mistakes Discovered After Receipt of Proposals but Before Award. This subsection (e) sets forth procedures to be applied in four situations in which mistakes in proposals are discovered after receipt of proposals but before award.
 - 1) During Discussions: Prior to Best and Final Offers. Once discussions are commenced with any offeror or after best and final offers are requested, any offeror may freely correct any mistake prior to the date set for conclusion of discussions or for receipt of best and final offers.
 - 2) Minor Informalities. Minor informalities, unless otherwise corrected by an offeror as provided in this Section, shall be treated as they are under competitive sealed bidding. (See subsection (d) above.)
 - 3) Corrections of Mistakes. If discussions are not held or if the best and final offers upon which award will be made have been received, mistakes may be corrected and the intended correct offer considered only if:
 - A) the mistake and the intended correct offer are clearly evident on the face of the proposal, in which event the proposal may not be withdrawn; or

NOTICE OF EMERGENCY RULES

B) the mistake is not clearly evident on the face of the proposal, but the offeror submits adequate proof that clearly and convincingly demonstrates both the existence of a mistake and the intended correct offer, and such correction would not be contrary to the fair and equal treatment of other offerors.

4) Withdrawal of Proposals. If discussions are not held, or if the best and final offers upon which award will be made have been received, the offeror may be permitted to withdraw the proposal if:

- A) the mistake is clearly evident on the face of the proposal and the intended correct offer is not;
- B) the offeror submits proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made but does not demonstrate the intended correct offer; or
- C) the offeror submits adequate proof that clearly and convincingly demonstrates the intended correct offer, but to allow corrections would be contrary to the fair and equal treatment of other offerors.

f) Mistakes Discovered After Award
Mistakes shall not be corrected after award of the contract except where the CPO or SPO finds it would be unconscionable not to allow the mistake to be corrected, such as obvious typographical or calculation errors.

g) Determinations Required
When a proposal is corrected or withdrawn, or correction or withdrawal is denied, a written determination shall be prepared showing that relief was granted or denied in accordance with this Part. The CPO or SPO shall prepare the determination.

Section 1300.2040 Cancellation of Solicitations; Rejection of Bids or Proposals
EMERGENCY

- a) Scope of this Section
The provisions of this Section shall govern the cancellation of any solicitations whether issued by the OAG under competitive sealed bidding, competitive sealed proposals, small purchases, or any other source selection method, and rejection of bids or proposals in whole or in part.
- b) Policy
Any solicitation may be cancelled when the CPO or SPO believes cancellation to be in the State's best interest. (See subsection (c)(2) below.) Nothing shall compel the award of a contract.
- c) Cancellation of Solicitation; Rejection of All Bids or Proposals Prior to Opening
1) As used in this Section, "opening" means the date set for opening of bids, receipt of unpriced technical offers in multi-step

NOTICE OF EMERGENCY RULES

sealed bidding, or receipt of proposals in competitive sealed proposals.
2) Prior to opening, a solicitation may be cancelled in whole or in part when the CPO or SPO determines in writing that such action is in the State's best interest for reasons including, but not limited to:

- A) the OAG no longer requires the supplies, services, or construction;
 - B) the OAG no longer can reasonably expect to fund the procurement; or
 - C) proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable.
- 3) When a solicitation is cancelled prior to opening, notice of cancellation shall be sent to all businesses solicited.

- 4) The notice of cancellation shall:
 - A) identify the solicitation;
 - B) briefly explain the reason for cancellation; and
 - C) where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurements of similar supplies, services, or construction.

d) Cancellation of Solicitation; Rejection of All Bids or Proposals After Opening

1) After opening but prior to award, all bids or proposals may be rejected in whole or in part when the CPO or SPO determines in writing that such action is in the State's best interest, for reasons including, but not limited to:

- A) the supplies, services, or construction being procured is no longer required;
- B) ambiguous or otherwise inadequate specifications were part of the solicitation;
- C) the solicitation did not provide for consideration of all factors of significance to the OAG;
- D) prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
- E) all otherwise acceptable bids or proposals received are at clearly unreasonable prices; or
- F) there is reason to believe that the bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.

2) When the solicitation is cancelled or when all bids or proposals are rejected, all vendors who submitted bids or proposals shall be sent a notice informing them of the cancellation or rejection.

- e) Documentation
The reasons for cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.
- f) Rejection of Individual Bids or Proposals

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

- 1) General. This subsection (f) applies to rejections of individual bids or proposals in whole or in part.
- 2) Notice in Solicitation. Each solicitation issued by the OAG shall provide that any bid or proposal may be rejected in whole or in part when in the best interest of the State as provided in this subsection (f).
- 3) Reasons for Rejection. Reasons for rejecting a bid or proposal may include, but are not limited to:
 - A) the business that submitted the bid or proposal is nonresponsible as determined under Section 1300.2046 of this Part;
 - B) the bid or proposal is not responsive, that is, it does not conform in all material respects to the solicitation;
 - C) the proposal ultimately (that is, after any opportunity has passed for altering or clarifying the proposal) fails to meet the announced requirements of the OAG in some material respect;
 - D) the supply or service item offered in the bid is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternates or other acceptability criteria set forth in the Invitation for Bids; or
 - E) the proposed price is clearly unreasonable.
- 4) Notice of Rejection. Upon request, unsuccessful bidders or offerors shall be advised of the reasons for rejection.
- g) Disposition of Bids or Proposals. When bids or proposals are rejected, or a solicitation cancelled after bids or proposals are received, the bids or proposals that have been opened shall be retained in the procurement file, or if unopened, returned to the bidders or offerors upon request, or otherwise disposed of.

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section 1300.2043 Suppliers
EMERGENCY

- a) The OAG may contract with any qualified source of supply, but must give preference to Directed Sources, and should consider the following Special Sources.
- b) Directed Sources--State-Produced Supplies or Service
 - 1) Correctional Industries. The CPO, in conjunction with the Department of Corrections, shall determine which supplies produced or services performed, if any, by Correctional Industries must be purchased by the OAG. The CPO shall determine whether such supplies or services meet the OAG's requirements and whether the price represents a fair market value for such

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

- supplies or services.
- 2) Central Services. Supplies and services available from the program operations of the Department of Central Management Services will be utilized unless the CPO authorizes procurement from other sources.
- c) Special Sources
 - 1) Prior to any equipment procurement, the OAG will consider property available from the State and Federal Surplus Warehouses that are under the jurisdiction of the Department of Central Management Services.
 - 2) Various goods and services are available from qualified workshops for the disabled and procurement from these workshops is encouraged. Notice and competition is not required pursuant to Section 45-35 of the Code. Information regarding qualified workshops will be obtained from DCMS.
 - 3) Various goods and services are available from State Agencies and other governmental units. These may be procured without notice and competition.

Section 1300.2044 Vendor List/Required Use
EMERGENCY

- a) The CPO may maintain a list of vendors interested in doing business with the OAG. Lists of names and addresses of bidders shall be available for public inspection.
- b) Inclusion or exclusion from the vendor list of the name of a business does not indicate whether the business is responsible in respect to a particular procurement or otherwise capable of successfully performing a State contract.
- c) Invitations for Bids and other solicitations will be sent to vendors on the vendor list for goods or services in question, except in the following cases:
 - 1) The vendor does not sell the particular commodity or equipment;
 - 2) When the number of vendors for a procurement classification is of such magnitude that optimum prices may reasonably be expected without soliciting the entire vendor list, the OAG may, if it determines that the best interest of the State would be served, rotate the selection from the list on any equitable basis; or
 - 3) The Invitations for Bids may be confined to bidders in a limited geographical service area, when the OAG determines that the best interests of the State will be served by so doing (example: purchases of ready-mix concrete, perishables, and equipment requiring periodic service).
- d) The CPO or SPO in the OAG may alternatively refer to vendor lists maintained by DCMS.

Section 1300.2045 Prequalification
EMERGENCY

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

a) General

1) The CPO may require that vendors be prequalified as a condition of being placed on the bid list. If so, vendors shall be given an opportunity to prequalify at least one time per year. The opportunity to prequalify, and whether prequalification will be a condition of bidding or being awarded a contract, shall be announced in the Bulletin.

2) The fact that a prospective vendor has been prequalified does not necessarily represent a finding of responsibility for a particular procurement.

3) Except in the case of professional and artistic services, distribution of and responses to the solicitation may be limited to prequalified vendors and award of a contract may be denied because a vendor was not prequalified.

b) Professional and Artistic Services

When the services are needed on a recurring basis, the CPO shall actively solicit persons engaged in providing such services to submit annual statements of qualifications in a prescribed format that shall include the following information:

- 1) technical education and training;
- 2) general or special experience, certifications, licenses, and memberships in professional associations, societies, or boards;
- 3) an expression of interest in providing a particular professional or artistic service; and
- 4) any other pertinent information requested by the CPO or SPO.

c) Qualified Products Lists are treated in Section 1300.2050 (Specifications and Samples) of this Part.

Section 1300.2046 Responsibility
EMERGENCY

a) Application

Contracts are to be made only with responsible vendors unless no responsible vendor is available to meet the OAG's needs. If there is doubt about responsibility, and if a bond or other security would adequately protect the State's interests, then that vendor may be awarded a contract upon receipt of the bond or other security.

b) Standards of Responsibility

1) Standards. Factors to be considered in determining whether the standard of responsibility has been met include whether a prospective vendor:

- A) has available the appropriate financial, material, equipment, facility, and personnel resources and expertise (or the ability to obtain same) necessary to indicate its capability to meet all contractual requirements;
- B) is able to comply with required or proposed delivery or performance schedules, taking into consideration all

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

existing commercial and governmental commitments;

C) has a satisfactory record of performance. Vendors who are or have been deficient in current or recent contract performance in dealing with the State or other customers may be deemed "not responsible" unless the deficiency is shown to have been beyond the reasonable control of the vendor;

D) has a satisfactory record of integrity and business ethics. Vendors who are under investigation or indictment for criminal or civil actions that bear on the particular procurement or that would make contracting with that vendor undesirable may be declared not responsible for the particular procurement;

E) is qualified legally to contract with the State;

F) has supplied all necessary information in connection with the inquiry concerning responsibility;

G) has a current Public Contracts number from the Illinois Department of Human Rights pursuant to 44 Ill. Adm. Code 250.210, if required. Proof of application prior to opening of bids or proposals will be sufficient for an initial determination; and

H) pays prevailing wages, if required by law.

2) Information pertaining to Responsibility. The prospective vendor shall supply information requested by the CPO or SPO concerning the responsibility of such vendor. The State may supplement this information from other sources and may require additional documentation at any time. If such vendor fails to supply the requested information, the CPO or SPO shall base the determination of responsibility upon any available information, or may find the prospective vendor nonresponsible.

c) Ability to Meet Standards

The prospective vendor may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request:

- 1) evidence that such vendor possesses such necessary items;
- 2) acceptable plans to subcontract for such necessary items; or
- 3) a documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items.

d) Duty Concerning Responsibility

Before awarding a contract, the CPO or SPO must be satisfied that the prospective vendor is responsible. Responsibility can be proven until time of award or execution of contract, whichever is later.

e) Written Determination of Nonresponsibility Required

If a vendor who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the CPO or the SPO. A copy of the determination shall be sent promptly to the nonresponsible vendor. The final determination shall be made part of the procurement file.

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

- f) Vendors not having a history of performance may be considered responsible if no other disqualifying factors exist. A bond or other security may be required for such bidders.
- g) Vendors who are newly formed business concerns having substantially the same owners, officers, directors, or beneficiaries as a previously existing nonresponsible vendor will be declared nonresponsible unless the new organization can prove it was not set up for the purpose of avoiding an earlier declaration of nonresponsibility.

SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

Section 1300.2047 Security Requirements

EMERGENCY

- a) The CPO or SPO may require that a vendor furnish bid, proposal, or performance security on OAG contracts. Whenever security is required, except as provided herein, the procurement document will clearly indicate the type and amount of security.
- b) Security, unless otherwise specified, may be in the form of cashier's check, certified check, money order, irrevocable letter of credit or bond. Any bond must be issued by a surety company authorized to do business in the State of Illinois.
- c) Unless the amount is set by law, the CPO or SPO will determine the amount, in dollars or percentage of contract price, that will adequately protect the State's interests.
- d) A vendor may be required to furnish up to 100% performance security at any time during contract performance and at its cost, if it appears that delivery or production schedules cannot be met, quality is poor, responsibility is questioned and for similar reasons.
- e) Permissive/Mandatory Security

- 1) Bid or proposal security is permissive on any contract but is not appropriate on emergency or sole source procurements.
 - 2) Performance security is permissive on any contract and is recommended on contracts calling for advance payment.
 - 3) Performance security is required on all public works contracts.
- f) A vendor may submit a single or continuous security each year that will be applicable on all contracts of the OAG. When such security has been obligated in an amount equal to the sum of accumulated security requirements, additional security must be submitted.
- g) Bid or proposal security will be returned to unsuccessful vendors as soon after award as possible. The bid or proposal security of the successful vendor will be returned after contracts have been signed and performance security, if any, submitted. Performance security will be returned upon full performance.

SUBPART H: SPECIFICATIONS AND SAMPLES

Section 1300.2050 Specifications and Samples

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

EMERGENCY

- a) CPO's Responsibilities Regarding Specifications
- 1) The CPO or SPO is authorized to write specifications for procurements for the OAG.
 - 2) When a written determination is made by the CPO or SPO authorized to prepare such specifications that there will be no substantial conflict of interest involved and it is otherwise in the best interest of the State, a contract to prepare specifications for OAG use in procurement of supplies or services may be entered into provided the CPO or SPO retains the authority to finally approve the specifications.
 - 3) If a specification for general or common use or a qualified products list exists for an item to be procured under Section 20-20 of the Code (Small Purchases), it shall be used except as otherwise authorized by the CPO. If no such specification exists, the CPO or SPO is hereby granted the authority to prepare specifications for use in such purchases. In an emergency under Section 20-30 of the Code (Emergency Procurements), any necessary specification may be utilized by the CPO or SPO without regard to the provisions of this Subpart.
- b) Procedures for the Development of Specifications
- 1) If a specification for a common or general use item has been developed or a qualified products list has been developed in accordance with this Section for a particular supply or service, it shall be used unless the CPO authorizes use of another specification.
 - 2) All procurements shall be based on specifications that accurately reflect the OAG's needs. Specifications shall clearly and precisely describe the salient technical or performance requirements.
 - 3) Specifications shall not include restrictions that do not significantly affect the technical requirements or performance requirements, or other legitimate OAG needs. All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply or service, or procurement from a sole source, unless no other manner of description will suffice.
 - 4) Any specifications or standards adopted by business, industry, not-for-profit organization or governmental unit may be adopted by reference.
 - 5) A specification may provide alternate descriptions where two or more design, functional, or performance criteria will satisfactorily meet the OAG's requirements.
- c) Brand Name or Equal Specification
- 1) Brand name or equal specifications may be used when the CPO or SPO determines in writing that:
 - A) no specification for a common or general use specification

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

or qualified products list is available;

- B) time does not permit the preparation of another form of specification, not including a brand name specification;
 - C) the nature of the product or the nature of the OAG's requirement makes use of a brand name or equal specification suitable for the procurement; or
 - D) use of a brand name or equal specification is in the State's best interest.
- 2) Brand name or equal specifications shall seek to designate more than one brand as "or equal", and shall further state that substantially equivalent products to those designated will be considered for award.
 - 3) Required Characteristics. Unless the CPO or SPO authorized to approve specifications determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics that are required.
 - 4) Nonrestrictive Use of Brand Name or Equal Specifications. Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. "Or equal" submissions will not be rejected because of minor differences in design, construction or features that do not affect the suitability of the product for its intended use. Burden of proof that the product is equal is on the bidder.

d) Brand Name Only Specification

- 1) Use. A brand name only specification may be used only when the CPO or SPO makes a written determination that only the identified brand name item or items will satisfy the OAG's needs. Brand name alone may be specified in order to ensure compatibility in existing systems, to preserve warranty, to ensure maintenance, or as authorized in writing by the CPO or SPO.
- 2) Competition. The CPO or SPO shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 1300.025 (Sole Source Procurement).

e) Qualified Products List

- 1) Use. A qualified products list may be developed with the approval of the CPO or SPO authorized to develop qualified products lists, when testing or examination of the supplies prior to issuance of the solicitation is desirable or necessary in order to best satisfy OAG requirements.

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

- 2) Solicitation. When developing a qualified products list, a representative group of potential suppliers shall be solicited in writing to submit products for testing and examination to determine acceptability for inclusion in a qualified products list. Any potential supplier, even though not solicited, may offer its products for consideration during the time allowed for testing and examination.

- 3) Testing and Confidential Data. Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with established requirements. Except as otherwise provided by law, trade secrets, test data, and similar information provided by the supplier will be kept confidential when requested in writing by the supplier.

f) Proven Products

The supply or service may be rejected if it has not been offered to other governmental or commercial accounts for at least one year. Specifications may require that the supply or services must have been used in business or industry for a specified period of time to be considered.

g) OAG Required Samples

- 1) Any required samples must be submitted as instructed in the solicitation with transportation prepaid by the vendor. Each sample must be labeled with the vendor's name, address and a means of matching the sample with the applicable bid or proposal.
- 2) Any sample submitted must be representative of the item that would be delivered if a contract were awarded for that item. Samples submitted by a successful vendor will be retained to check continuing quality. Submission of samples will not limit the OAG's right to require adherence to specifications.
- 3) No payment will be made for OAG Required Samples. Samples not destroyed or consumed by examination or testing will be returned upon request at vendor's expense. Such request must be made at time of submission with return collect or prepayment provisions and instructions for return of the samples.
- h) Product Demonstration

Any vendor may request time and space to demonstrate a product or service. Agreement to allow such demonstration will be solely at the OAG's discretion and will not entitle the bidder to a contract nor shall payment for the demonstration be allowed unless a written contract had been executed prior to the demonstration.
- i) Specifications Prepared by Other Than OAG Personnel
 - 1) Specifications may be prepared by other than OAG personnel, including, but not limited to, other State personnel, consultants, architects, engineers, designers, and other drafters of specifications for public contracts. Contracts for the preparation of specifications by other than OAG personnel shall require the specification writer to adhere to the Code and OAG requirements.

ATTORNEY GENERAL

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

NOTICE OF EMERGENCY RULES

- 2) The person who prepared the specifications shall not submit a bid or proposal to meet the procurement need unless the CPO or SPO determines in writing that it would be in the best interest to accept such a bid or proposal from that person and a notice to that effect is provided to the CPO and is published in the Bulletin. The CPO may disapprove that determination.

SUBPART I: CONTRACT TYPE

Section 1300.2055 Types of Contracts
EMERGENCY

- a) Scope of Rule
This Section contains descriptions of types of contracts and limitations as to when they should be utilized by the OAG in its procurements.
- b) Prohibition of Cost-Plus-a-Percentage-of-Cost Contracting
The cost-plus-a-percentage-of-cost contract is prohibited by Section 20-55 (Types of Contracts) of the Illinois Procurement Code and by this Part. This type of contracting may not be used alone or in conjunction with an authorized type of contract.
- c) Types of Fixed-Price Contracts

- 1) Firm Fixed-Price Contract. A firm fixed-priced contract provides a price that is not subject to adjustment because of variations in the contractor's cost of performing the work specified in the contract.
- 2) Fixed-Price Contract with Price Adjustment.

A) A fixed-price contract with price adjustment provides for variation in the contract price under special conditions defined in the contract, other than customary provisions authorizing price adjustments due to modifications to the work. The formula or other basis by which the adjustment in contractor price can be made shall be specified in the solicitation and the resulting contract. Adjustment allowed may be upward or downward only, or both upward and downward. Examples of conditions under which adjustments may be provided in fixed-price contracts are:

- i) changes in the contractor's labor agreement rates as applied to industry or areawide (such as are frequently found in State contracts for the purchase of coal);
- ii) changes due to rapid and substantial price fluctuations, which can be related to an accepted index (such as contracts for gasoline, heating oils, and dental gold alloy); and
- iii) in requirement contracts (subsection (g)(3) of this Section) when a general price change applicable to all customers occurs, or when a general price change

alters the base price (such as a change in a manufacturer's published price list or posted price to which a fixed discount is applied pursuant to the contract to determine the contract price).

- B) If the contract permits unilateral action by the contractor to bring about the condition under which a price increase may occur, the OAG shall have the right to reject the price increase and terminate without cost the future performance of the contract.

d) Cost-Reimbursement Contracts

- 1) Determination Prior to Use.

A) A cost-reimbursement type contract may be used only when the CPO or SPO determines in writing that such a contract is likely to be less costly to the OAG than any other type or that it is impracticable to obtain otherwise the supplies, services, or construction.

B) Reimbursement of travel expenses in accordance with applicable travel control board regulations is authorized without further determinations.

- 2) Cost Contract. A cost contract provides that the contractor will be reimbursed for allowable costs incurred in performing the contract, but will not receive a fee.

3) Cost-Plus-Fixed-Fee Contract. This is a cost-reimbursement type contract that provides for payment to the contractor of an agreed fixed fee in addition to reimbursement of allowable incurred costs. The fee is established at the time of contract award and does not vary if the actual cost of contract performance is greater or less than the initial estimated cost established for such work. Thus, the fee is fixed but not the contract amount because the final contract amount will depend on the allowable costs reimbursed. The fee is subject to adjustment only if the contract is modified to provide for an increase or decrease in the scope of work specified in the contract. The cost-plus-fixed-fee contract can be either a Completion Form or Term Form.

- 4) Cost Incentive Contracts.

A) General. A cost-incentive type of contract provides for the reimbursement to the contractor of allowable costs incurred up to the ceiling amount and establishes a formula whereby the contractor is rewarded for performing at less than target cost (that is, the parties' agreed best estimate of the cost of performing the contract will vary inversely with the actual, allowable costs of performance and consequently is dependent on how effectively the contractor controls cost in the performance of the contract).

B) Fixed-Price Cost-Incentive Contract. In a fixed-price cost-incentive contract, the parties establish at the outset a target cost, a target profit (that is, the profit that

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

will be paid if the actual cost of performance equals the target cost), a formula that provides a percentage increase or decrease of the target profit depending on whether the actual cost of performance is less than or exceeds the target cost, and a ceiling price. After performance of the contract, the actual cost of performance is arrived at based on the total incurred allowable costs as provided in the contract. The final contract price is then established in accordance with the formula using the actual cost of performance. The final contract price may not exceed the ceiling price. The contractor is obligated to complete performance of the contract, and, if actual costs exceed the ceiling price, the contractor will suffer the loss.

- C) Cost-Reimbursement Contract with Cost-Incentive Fee. In a cost-reimbursement contract with cost-incentive fee, the parties establish at the outset a target cost; a target fee; a formula for increase or decrease of fee depending on whether actual cost of performance is less than or exceeds the target cost, with maximum and minimum fee limitations; and a cost ceiling that represents the maximum amount that the OAG is obligated to reimburse the contractor. The contractor continues performance until the work is complete or costs reach the ceiling specified in the contract, including any modification thereof, whichever first occurs. After performance is complete or costs reach the ceiling, the total incurred, allowable costs reimbursed as provided in the contract are applied to the formula to establish the incentive fee payable to the contractor.

- e) Performance Incentive Contracts
In a performance incentive contract, the parties establish at the outset a pricing basis for the contract, performance goals, and a formula that varies the profit or the fee if the specified performance goals are exceeded or not met. For example, early completion may entitle the contractor to a bonus, while late completion may entitle the OAG to a price decrease.

- f) Time and Materials Contracts; Labor Hour Contracts
Time and materials contracts provide an agreed basis for payment for materials supplied and labor performed. Labor hour contracts provide only for the payment of labor performed. Such contracts shall, to the extent possible, contain a stated ceiling or an estimate that shall not be exceeded without prior OAG approval.

- g) Definite Quantity and Indefinite Quantity Contracts
1) Definite Quantity. A definite quantity contract is a fixed-price contract that provides for delivery of a specified quantity of supplies or services either at specified times or when ordered.
2) Indefinite Quantity. An indefinite quantity contract is a contract for an indefinite amount of supplies or services to be furnished at specified times, or as ordered, that establishes

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

unit prices of a fixed-price type. Generally an approximate quantity or the best information available as to quantity is stated in the solicitation. The contract may provide a minimum quantity the OAG is obligated to order and may also provide for a maximum quantity provision that limits the OAG's obligation to order.

- 3) Requirements Contracts. A requirements contract is an indefinite quantity contract for supplies or services that specifically obligates the OAG to order all the actual requirements of the OAG during a specified period of time.

- h) Leases
A lease is a contract for the use of supplies or real property under which title will not pass to the State at any time.

- i) Recovery Contracts
Contracts may provide for payment to the vendor of a percentage of the amount the vendor recovers or collects on behalf of the State. The percentage may be fixed or may vary depending on amount of recovery or other factors, and the percentage may be paired with a fixed price or cost reimbursement method.

- j) Option Provisions
1) Contract Provision. When a contract is to contain an option for renewal, extension, or purchase, notice of such provision shall be included in the solicitation. These options may be exercised without taking other procurement action when the option is established for exercise at the OAG's option.

- 2) Lease with Purchase Option. A purchase option in a lease may be exercised only if the lease containing the purchase option was awarded under competitive sealed bidding or competitive sealed proposals, the leased supply or facility is the only supply or facility that can meet the OAG's requirements, or if the purchase option price is less than the small purchase limit or if emergency conditions exist.

- k) State Produced Supplies and Services
Notwithstanding any provision in any contract, supplies or services available from the State's own programs, such as Correctional Industries, may be ordered without violating any contract.

- l) Extraordinary Quantities
Notwithstanding any provision in any contract, the OAG reserves the right to take bids separately if a particular quantity requirement arises that exceeds the OAG's normal needs or ordering requirements.

- m) Energy Conservation
The CPO may authorize an Invitation for Bids, Request for Proposals or sole source negotiation for energy conservation measures whereby the OAG would make payment based on utility cost savings. Such contract shall require a clearly defined baseline of energy usage and method of measuring cost savings taking into account at least differing weather conditions, changes in facility, usage and cost of energy.

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

SUBPART J: DURATION OF CONTRACTS

Section 1300.2060 Duration of Contracts - General
EMERGENCY

a) General

- 1) A multi-term contract for a term up to 10 years is authorized when it is in the best interest of the State.
- 2) A software license may have a term longer than 10 years, including for a perpetual term, provided the payment term is limited to no more than 10 years.
- b) The contractual obligation of both parties in each fiscal period succeeding the first is subject to the appropriation and availability of funds therefor. The contract shall provide that, in the event that funds are not available for any succeeding fiscal period, the remainder of such contract shall be cancelled without penalty to, or further payment being required by, the OAG. This provision applies to only those contracts that are funded in whole or in part by funds appropriated by the Illinois General Assembly or other governmental entity.
- c) Conditions for Use of Multi-Term Contracts
 - A multi-term contract may be used when:
 - 1) special production of definite quantities or the furnishing of long-term services are required to meet OAG needs; or
 - 2) a multi-term contract will serve the best interests of the State by encouraging effective competition or otherwise promoting economies in OAG procurement. The following factors are among those relevant to such a determination:
 - A) firms that are not willing or able to compete because of high start-up costs or capital investment in facility expansion will be encouraged to participate in the competition when they are assured of recouping such costs during the period of contract performance;
 - B) lower production costs because of larger quantity of service requirements, and substantial continuity of production or performance over a longer period of time, can be expected to result in lower unit prices;
 - C) stabilization of the contractor's work force over a longer period of time may promote economy and consistent quality; or
 - D) the cost and burden of contract solicitation, award, and administration of the procurement may be reduced.

d) Multi-Term Contract Procedure

The solicitation shall state:

- 1) the proposed term;
- 2) the amount of supplies or services required for the proposed contract period;
- 3) whether bidders or offerors may submit prices for:

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

SUBPART K: CONTRACT MATTERS

- A) the first fiscal period only;
- B) the entire time of performance only; or
- C) both the first fiscal period and the entire time of performance; and
- 4) that a multi-term contract may be awarded and how award will be determined.

e) Renewals

- 1) Where the original procurement specifically called for an initial term plus renewals, the renewals may be exercised without further procurement activity, provided the initial term and the exercised renewals may not exceed 10 years, the terms and conditions do not change except as provided in the contract (such as price escalations tied to an index) and the option is reserved solely to the OAG.
- 2) Where the original procurement was silent as to renewals, the renewal must be within the guidelines for small, sole source or emergency procurements as set forth in the Code and this Part.

SUBPART K: CONTRACT MATTERS

Section 1300.2560 Prevailing Wage
EMERGENCY

- a) For the following classifications and if competition exists, no bidder will be awarded a contract unless its employees are paid wages and benefits and are working under conditions prevalent in the location where the work is to be performed.
 - 1) Public works
 - 2) Printing
 - 3) Janitorial cleaning, window washing, food and security guard services having a monthly contract price of \$200 or more or a yearly price of \$2,000 or more.
- b) Prevailing wage and conditions prevalent means the hourly wage rate, overtime, holiday pay, pension, welfare, premium differential, vacation pay and other benefits received by employees and the environmental conditions under which they work.
- c) Prevailing wage rates, benefits and conditions will be those in effect on the first date of the contract, provided that if the rate changes during the contract term and the amount of change is known before execution of the contract, then the contract rate will vary in like amount. If the increase cannot be determined in advance, the contract will be increased by the amount of the rate change or the agency may cancel the contract. The amount that may vary includes all components of price that are dependent on the usage rate, provided that profit shall not increase due to prevailing wage increases. If the initial prevailing wage, etc., cannot be determined prior to execution, contracts may be entered into and will remain valid for the stated term.

ATTORNEY GENERAL

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

NOTICE OF EMERGENCY RULES

inclusive covering transportation, transit insurance, delivery, installation, taxes, and any other costs.

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section 1300.4005 Real Property Leases and Capital Improvement Leases
EMERGENCY

Real property leases and capital improvement leases shall be procured in accordance with Article 40 of the Code, this Part and 44 Ill. Adm. Code 5000. In the event of a conflict, 44 Ill. Adm. Code 5000 shall prevail.

Section 1300.4010 Renewal
EMERGENCY

The renewal or extension of leases in effect before July 1, 1998 shall be in accordance with Section 40-15 of the Code except that Section 40-15(b)(5)(ii) and (iii) shall not apply.

SUBPART O: PREFERENCES

Section 1300.4505 Procurement Preferences
EMERGENCY

The procurement preferences identified in Article 45 of the Code must be considered in developing procurement documents, conducting evaluations and drafting contracts.

Section 1300.4510 Resident Bidder Preference
EMERGENCY

- a) "Illinois resident vendor" as used in this Section means a person authorized to transact business in this State and having a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract was first advertised or announced, including a foreign corporation duly authorized to transact business in this State that has a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract is first advertised or announced.
- b) In breaking a tie, an Illinois resident vendor shall be given the award.
- c) An Illinois resident vendor who would perform the services or provide the supplies from another state shall be considered a resident of that other state as against an Illinois resident vendor who would perform the services or provide the supplies from Illinois, if that other state has an in-state preference.

- d) If a collective bargaining agreement is in effect governing the type of printing, janitorial cleaning, window washing, food or security guard service sought, that agreement will define minimum wages, benefits and conditions that must be paid in order for a bidder to be considered responsible.
- e) For Public Works, location means the county where the physical work upon public works is performed, except that if there is not available in the county a sufficient number of competent skilled laborers, workers and mechanics to construct the public works efficiently and properly, "locality" includes any other county nearest the one in which the work or construction is to be performed and from which such persons may be obtained in sufficient numbers to perform the work.
- f) For Printing Contracts, location means one of the following areas:

- 1) Cook County
- 2) Boone, Bureau, Carroll, Champaign, DeKalb, DeWitt, DuPage, Ford, Fulton, Grundy, Hancock, Henderson, Henry, Iroquois, Jo Daviess, Kane, Kankakee, Kendall, Knox, Lake, LaSalle, Lee, Livingston, Logan, Marshall, Mason, McDonough, McHenry, McLean, Mercer, Ogle, Peoria, Piatt, Putnam, Rock Island, Schuyler, Stark, Stephenson, Tazewell, Vermilion, Warren, Whiteside, Will, Winnebago, Woodford.
- 3) Adams, Alexander, Bond, Brown, Calhoun, Cass, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Gallatin, Greene, Hamilton, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Macon, Macoupin, Madison, Marion, Massac, Menard, Monroe, Montgomery, Morgan, Moultrie, Perry, Pike, Pope, Pulaski, Randolph, Richland, Saline, Sangamon, Scott, Shelby, St. Clair Union, Wabash, Washington, Wayne, White, Williamson.
- 4) Where the printing is performed in a plant outside the jurisdiction of this State, it shall be deemed produced in the Illinois locality in which delivery of the printing ordered is required to be made. Where such printing is required to be delivered to more than one Illinois locality, such printing shall be deemed produced in the Illinois locality to which the largest dollar volume of printing under the contract is to be delivered.
- g) For janitorial cleaning, window washing, food and security guard services, location means the county in which the work is to be performed.
- h) Prevailing wages, benefits and conditions will be determined by the Director of the Illinois Department of Labor.

SUBPART L: CONTRACT PRICING

Section 1300.2800 All Costs Included
EMERGENCY

Unless otherwise allowed by the solicitation, prices quoted shall be all

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

- d) If an Illinois resident vendor produces or performs at least 51% of the goods or services in another state, that Illinois resident vendor shall be considered a resident of that other state for purposes of application of this reciprocal preference when evaluating the bid of an Illinois resident contractor that produces or performs at least 51% of the goods or services in Illinois.
- e) The CPO or SPO may refer to the list of states with in-state preference maintained by DCMS, which shall be considered in all procurements involving out-of-state vendors.

Section 1300.4530 Correctional Industries EMERGENCY

- a) The CPO or SPO shall refer to the listing maintained by DCMS of the goods or services available from the Department of Corrections that identifies those that must be purchased from Corrections.
- b) Those items that must be purchased from Corrections may not be procured from any other source without the express written authorization of the CPO.
- c) The CPO or SPO is authorized to procure from Corrections without seeking competition or giving public notice.

Section 1300.4535 Sheltered Workshops for the Disabled EMERGENCY

- a) The CPO or SPO shall refer to information prepared by DCMS regarding qualified sheltered workshops and categories of goods and services set-aside to such sheltered workshops by DCMS. To the extent practicable, the OAG will follow such set-asides.
- b) Pricing Approval
- While notice and competition is not required prior to contracting with a sheltered workshop, prices must be reasonable. Whether a price is reasonable will be determined based upon current market prices, historical prices, prices received by other State agencies for similar goods or services, the policy of the Code to promote procurements from sheltered workshops, and other such relevant factors.

Section 1300.4540 Gas Mileage EMERGENCY

- a) Vehicle specifications shall require compliance with minimum gas mileage requirements established in Section 45-40 of the Code.
- b) Requests for exceptions must be approved by the CPO. Requests must fully describe the circumstances necessitating a non-compliant vehicle.
- c) No exception will be granted unless it is clear from the request that a non-compliant vehicle is necessary in order to carry out the functions of the OAG.

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

Section 1300.4545 Small Business EMERGENCY

- a) Set-Aside
- DCMS may determine categories of goods or service procurements that will be set-aside for small business. The CPO or SPO may contact DCMS to determine whether a particular procurement has been set-aside for small business, and if so, the OAG may honor the set-aside to the extent practicable.
- b) Small Business List
- The OAG may avail itself of the list of responsible vendors that meet the criteria of small business maintained by DCMS. A business that fits the definition of small on the day of bid or proposal opening will be considered small for the duration of the contract.
- c) Required Use
- If the CPO or SPO wishes to make a procurement covered by a set-aside designation, the solicitation must note responses are limited to those from responsible small businesses. Bids or proposals received from large businesses will be rejected as nonresponsive.
- d) Withdrawal of Set-Aside
- If the CPO or SPO determines that acceptance of the best bid or proposal will result in the payment of an unreasonable price, the CPO or SPO shall reject all bids or proposals and withdraw the designation of small business set-aside for the procurement in question. When a small business set-aside is withdrawn, notification shall be published in the Illinois Procurement Bulletin with an explanation. After withdrawal of the small business set-aside, the procurement shall be conducted in accordance with the limitations of the Code and this Part.
- e) Criteria for Small Business
- Unless the CPO provides a definition for a particular procurement that reflects industrial characteristics, a small business is one:
- 1) Independently owned and operated.
 - 2) Not dominant in its field of operations. This means the business does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining dominance, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.
 - 3) With annual sales for most recently ended fiscal year no greater than:
 - A) \$7,500,000 for wholesale business;
 - B) \$3,000,000 for construction business; or
 - C) \$1,500,000 for retail business.
 - 4) With no more than 250 employees if a manufacturing business.

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

- A) A manufacturing business shall calculate how many people it employs by determining its average full-time equivalent employment, based on the number of persons employed on a full-time, part-time, temporary or other basis for its most recently ended fiscal year.
- B) If a manufacturing business has been in existence for less than a full fiscal year, its average employment should be calculated for the period through one month prior to the bid or proposal due date.
- 5) If both a wholesaler and a retailer, the combined wholesale and retail annual sales for its most recently completed fiscal year may not exceed \$9,000,000. The retail component may not exceed \$1,500,000 and the wholesale component may not exceed \$7,500,000.
- 6) When computing the size status of a vendor, the number of employees and annual sales and receipts, as applicable, of the vendor and all affiliates shall be included. Concerns are affiliates when either one directly or indirectly controls or has the power to control the other, or when a third party or parties control or have the power to control both. In determining whether concerns are independently owned and operated and whether affiliation exists, consideration shall be given to all appropriate factors, including use of common facilities, common ownership and management and contractual arrangements. However, a franchise relationship shall not affect small business status if the franchisee has the right to profit commensurate with ownership and bears the risk of loss or failure.

SUBPART P: ETHICS

Section 1300.5013 Conflicts of Interest
EMERGENCY

- a) An individual has a direct pecuniary interest in a contract when the individual is owed a payment in conjunction with performance of a contract, including, but not limited to, finder's fees and commission payments.
- b) Distributable income means the amount of income actually distributed to those entitled to receive a share of such income after a company has paid all expenses, including employee salary and bonuses, and retained earnings.
- c) This Section does not apply to contracts with licensed professionals provided such contracts are competitively bid. (For purposes of this Section, "bid" means procured pursuant to the competitive procedures identified in Subpart E of this Part.)

Section 1300.5015 Negotiations for Future Employment
EMERGENCY

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

- a) It is unlawful for any person employed in or on a continual contractual relationship with any of the offices or agencies of State government to participate in contract negotiations on behalf of that office or agency with any firm, partnership, association, or corporation with whom that person has a contract for future employment or is negotiating concerning possible future employment. [30 ILCS 500/50-15(a)]
- b) An individual who performs services pursuant to a contract and who meets the requirements of an "employee" as opposed to an "independent contractor" is in a "continued contractual relationship" for the effective date of the contract until such time as the contract is terminated.
- c) An individual who performs services pursuant to a contract and who meets the requirements of an "independent contractor" as opposed to an "employee" is in a "continual contracted relationship" if the contract term is indefinite, is automatically renewed, is renewable at the individual's option, is renewable unless the OAG must act to terminate, or has a definite term of at least three months.

Section 1300.5020 Exemptions
EMERGENCY

If the SPO finds a conflict of interest under Section 50-13 of the Code with the vendor selected for award or contract negotiations, the SPO shall forward to the CPO the name of the vendor and a description of the proposed contract and of the potential conflict, and shall state why an exemption should be granted. The CPO shall decide whether to refuse to allow a contract or to grant an exemption.

Section 1300.5030 Revolving Door
EMERGENCY

- a) The CPO or SPOs shall identify designees in writing and shall maintain the designation for a period of at least two years following the end or revocation of the designation.
- b) Those designees whose job or position descriptions are at least 51% directly related to State procurement are subject to this Section.

Section 1300.5035 Disclosure of Financial Interests and Potential Conflicts of Interest
EMERGENCY

- a) Distributable income means the amount of income actually distributed to those entitled to receive a share of such income after a company has paid all expenses, including employee salary and bonuses, and retained earnings.
- b) Personal Services shall be any contract for services subject to the Code including, by way of example, professional and artistic services,

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

- repair services, cleaning and guard services.
- c) "Competitively bid" means a contract let pursuant to Section 20-10 of the Code.
- d) The CPO may prescribe forms for the disclosure of potential conflicts of interest and financial interests of bidders or offerors required under Section 50-35 of the Code.

SUBPART Q: CONCESSIONS

Section 1300.5310 Concessions
EMERGENCY

Proposed concessions or leases of State property under this provision of the Code must be coordinated with the Department of Central Management Services to ensure compliance with the State Property Control Act [30 ILCS 605] and rules implementing that Act (44 Ill. Adm. Code 5000).

SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

Section 1300.5510 Complaints Against Vendors
EMERGENCY

- a) Whenever a vendor fails to deliver on time or meet specifications, or for other similar causes, the OAG shall initiate a complaint to the vendor.
- b) For relatively minor infractions, the OAG may initiate contact by telephone or in person. If not resolved by this action, a written complaint will be made.
- c) If the initial complaint is not satisfactorily answered, or for serious infractions, the OAG will send a written complaint to the vendor detailing the problem.
- d) A copy of all written complaints shall be filed with the CPO. Information regarding the resolution of the complaint shall also be filed.

Section 1300.5520 Suspension
EMERGENCY

- a) Application
This Section applies to all debarments or suspensions of vendors from consideration for award of contracts.
- b) The CPO may suspend a vendor from doing business with the OAG, or for specific types of supplies or services. A suspension may be issued upon a showing the vendor violated the Code or this Part, or failed to conform to specifications or terms of delivery.
- c) When the CPO finds cause exists for suspension, a notice of suspension, including a copy of such determination, shall be sent to the suspended vendor. Bids or proposals will not be solicited from

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

- the suspended vendor, and, if they are received they will not be considered during the period of suspension.
- d) A contractor may be suspended for a period of time commensurate with the seriousness of the offense, but for no more than five years. The suspension will be effective within seven calendar days after receipt of notice unless an objection is filed. If an objection is filed, suspension would not become effective until the evaluation of the objection is completed.
- e) The CPO may debar a vendor. Debarment is the permanent suspension of a vendor from doing business with the OAG. A debarment may only take place in those instances involving bribery or attempted bribery of a State of Illinois officer or employee, or as otherwise allowed or required by law. Bids or proposals will not be solicited from the debarred vendor, and, if they are received they will not be considered.
- f) The OAG shall maintain a master list of all suspensions and debarments. The master list will retain information concerning suspensions and debarments as public records. Such records will be maintained for a period of at least three years following the end of the suspension or debarment. Such public information may be considered in determining responsibility.

Section 1300.5530 Settlement and Resolution of Contract and Breach of Contract
Controversies
EMERGENCY

- a) Authority to Settle or Resolve Controversies
The CPO or SPO who established the contract shall have authority to settle and resolve controversies but the Attorney General may set limits on such authority given to the SPO.
- b) Authority of Using Agency
The OAG has the authority to accept delivery of goods or services in accordance with contract requirements as satisfactory adjustment of a complaint.
- c) Substitution of Terms/Price Reduction
If the vendor proposes to make an adjustment by:
- 1) substituting an alternative specification, or
 - 2) reducing the contract price by a certain amount to compensate for some failure to provide full performance under the contract,
- such proposal must be referred to and approved by the CPO or SPO.
- d) Cancellation for Breach of Contract
In any of the following cases the CPO or SPO shall have the right to terminate or rescind any contract entered into under this Part:
- 1) The successful bidder fails to furnish a satisfactory performance bond within the time specified;
 - 2) The vendor fails to make delivery at the place or within the time specified in the contract or as ordered by the OAG;
 - 3) Any goods or services provided under the contract are rejected

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

(for example not meeting specifications, not conforming to sample, or not being in good condition when delivered) and are not promptly replaced by the vendor. If there are repeated rejections of the vendor's goods or services, this shall be grounds for termination or rescission, even though the vendor offers to replace the goods or services promptly;

- 4) The vendor is guilty of misrepresentation (for example, misbranding of food or drugs) in connection with another contract for the sale of goods or services to the OAG such that he cannot reasonably be depended upon to fulfill his obligations as a responsible vendor under any of his contracts with the OAG;

- 5) The vendor:

- A) is adjudged bankrupt or enters into a general assignment for the benefit of his creditors or receivership due to insolvency; or
- B) disregards laws and ordinances, rules or instructions of a contracting officer; or
- C) acts in violation of any provision of the contract or this Part;

- 6) The contract conflicts with any statutory or constitutional provision of the State of Illinois or of the United States; or
- 7) Any other breach of contract or other unlawful act by the vendor.

- e) Cancellation for Fraud, Collusion, Illegality, Etc.
The OAG may cancel any contract it established if there is sufficient evidence to show that:

- 1) the contract was obtained by fraud, collusion, conspiracy, or other unlawful means; or
- 2) the contract conflicts with any statutory provision of the State of Illinois or of the United States.

- f) Withholding Money to Compensate State for Damages
If a contract is terminated or rescinded under this Section, the OAG may deduct from whatever is owed the vendor on that or any other contract an amount sufficient to compensate the State of Illinois for any damages suffered by it because of the vendor's breach of contract or other unlawful act on his part on which the cancellation is based.

- g) Damages

The damages for which the OAG may be compensated as provided in this Section or by a suit on the vendor's performance bond or by other legal remedy shall include, but are not limited to, the following:

- 1) the additional cost of goods or services bought elsewhere;
- 2) cost of repeating the procurement procedure;
- 3) any expenses incurred because of delay in receipt of goods or services; and
- 4) any other damages caused by the vendor's breach of contract or unlawful act.

Section 1300.5540 Violation of Law or Rule
EMERGENCY

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

- a) Determination that Solicitation or Award Violates Law
If the CPO finds that the solicitation or proposed award is in violation of statute or this Part, the CPO may cancel the solicitation or proposed award, or make modifications to correct the violation, if such correction may be legally accomplished.

- b) Determination that Contract Violated Law or Rule
Contracts based on awards or solicitations that were in violation of statute or this Part shall be terminated at no cost to the OAG.

- c) Effect of Declaring a Contract Null and Void
In all cases where a contract is voided, the OAG shall endeavor to return those supplies delivered under the contract that have not been used or distributed. No further payments shall be made under the contract.

Section 1300.5550 Protests
EMERGENCY

- a) Protest Resolution by CPO or SPO

An actual or prospective bidder, offeror, or contractor that may be aggrieved in connection with a procurement may file a protest on any phase of solicitation or award, including but not limited to specifications preparation, bid solicitation, or award.

- b) Complaints

Complainants should seek resolution of their complaints initially with the OAG. Such complaints may be made verbally or in writing.

- c) Filing of Protest

1) Protests shall be made in writing to the CPO or SPO, if applicable, and shall be filed within 14 days after the protester knows or should have known of the facts giving rise to the protest. A protest is considered filed when physically received by the CPO or SPO. Protests filed after the 14 day period shall not be considered. In regard to a protest regarding specifications, the protest must be received within 14 days after the date the solicitation was issued, and in any event must be received by the OAG at the designated address before the date for opening of bids or proposals.

- 2) To expedite handling of protests, the envelope should be labeled "Protest." The written protest shall include as a minimum the following:

- A) the name and address of the protester;
- B) appropriate identification of the procurement, and, if a contract has been awarded, its number;
- C) a statement of reasons for the protest; and
- D) supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time, in which case the expected availability date shall be indicated.

- d) Requested Information; Time for Filing

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

Any additional information requested by the OAG shall be submitted within the time periods established by the requesting source in order to expedite consideration of the protest. Failure of the protesting party to comply expeditiously with a request for information by the CPO or the SPO may result in resolution of the protest without consideration of that information.

- e) Stay of Procurements During Protest
When a protest has been timely filed and before an award has been made, the CPO or SPO shall make no award of the contract until the protest has been resolved, unless the CPO makes a written determination, after consulting with the SPO, that the award of the contract without delay is necessary to protect the interests of the State.
- f) Decision by the CPO or SPO
Time for Decisions. A decision on a protest shall be made by the CPO or SPO as expeditiously as possible after receiving all relevant, requested information. If a protest is sustained, the available remedies include, but are not limited to, reversal of award and cancellation or revision of the solicitation.
- g) Effect of Judicial or Administrative Proceedings
If an action concerning the protest has commenced in court, the CPO or SPO shall not act on the protest but shall refer the protest to the Chief of the General Law Bureau in the Office of the Attorney General.

SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

Section 1300.6010 Supply Management and Dispositions EMERGENCY

- a) Inventory Management
Supplies shall be ordered so as to maintain the minimum inventory commensurate with ability to meet agency needs. In no event shall more than a 12-month supply be maintained in inventory. This 12-month inventory does not apply to mechanical spare parts or when a greater quantity is needed to meet minimum order quantities.
- b) Annual Inventory
All warehouses and similar storage areas shall be inventoried at least annually.
- c) Report of Supplies
The CPO shall be notified, at such times as that officer may prescribe, of all supplies in excess of 12-month supply.

SUBPART T: GOVERNMENTAL JOINT PURCHASING

Section 1300.6500 General EMERGENCY

In an effort to make the procurement process more efficient, the State and

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

other governmental units may agree to utilize each other's procurement contracts. Agreements between State agencies with procurement authority and other governmental units with taxing authority are governed by this Part and the Governmental Joint Purchasing Act [30 ILCS 525].

Section 1300.6510 OAG Use of Other Contracts EMERGENCY

The OAG may utilize procurement contracts established by other authorized State agencies or units of government:

- a) if the contract:
 - 1) was established by sealed bid or sealed proposal; or
 - 2) is not required by the Illinois Procurement Code to be bid;
- b) if the price is reasonable;
- c) if an existing contract of the OAG would not be violated;
- d) if allowed by the vendor;
- e) if necessary State contract terms can be added; and
- f) if State legal requirements are otherwise followed.

Section 1300.6520 No Agency Relationship EMERGENCY

In any joint procurement situation, the agency establishing the contract does not become the procurement agency for the other. The ordering unit must issue its own purchase order, accept its own deliveries and make its own payments.

SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section 1300.7000 Severability EMERGENCY

If any provision of this Part or any application thereof is held invalid, such invalidity shall not affect other provisions or applications of this Part that can be given effect without such invalid provision or application.

Section 1300.7010 Government Furnished Property EMERGENCY

If the OAG provides any property to the vendor in furtherance of the contract, such property shall remain the property of the State but may be consumed by the vendor if necessary to complete the contract. Vendor will issue a receipt for the property and will be responsible for its safekeeping and return of unused property to the State.

Section 1300.7015 Inspections EMERGENCY

- a) Inspection of Plant or Site

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

The OAG may enter a contractor's or subcontractor's plant or place of business to:

- 1) inspect supplies or services for acceptance by the State pursuant to the terms of a contract;
- 2) audit the books and records of any contractor or subcontractor pursuant to record and audit provisions of this Part;
- 3) investigate an action to debar or suspend a person from consideration for award of contracts pursuant to the Illinois Procurement Code;
- 4) determine whether the standards of responsibility have been met or are capable of being met; and
- 5) determine if the contract is being performed in accordance with its terms.

b) Inspection and Testing of Supplies and Services

1) Solicitation and Contractual Provisions. A contract may provide that the OAG or its agent may inspect supplies and services at the contractor's or subcontractor's facility and perform tests to determine whether the supplies or services conform to solicitation requirements, or, after award, to contract requirements, and are therefore acceptable. Such inspections and tests shall be conducted in accordance with the terms of the solicitation and contract.

2) Procedures for Trial Use and Testing. The CPO may establish operational procedures governing the testing and trial use of equipment, material, and other supplies, and the application of resulting information and data to specifications or procurements.

c) Conduct of Inspections

1) Inspectors. Inspections or tests shall be performed so as not to unduly delay the work of the contractor or subcontractor. No inspector other than the CPO or SPO may change any provision of the specifications or the contract without written authorization of the CPO or SPO. The presence or absence of an inspector shall not relieve the contractor or subcontractor from any requirements of the contract.

2) Location. When an inspection is made in the plant or place of business of a contractor or subcontractor, such contractor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.

3) Time. Inspection or testing of supplies and services performed at the plant or place of business of any contractor or subcontractor shall be performed at reasonable times.

d) Inspection of Construction Projects

On-site inspection of construction shall be performed in accordance with the terms of the contract.

Section 1300.7020 Records and Audits

EMERGENCY

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

a) Retention of Books and Records. Books and records that relate to performance of an OAG contract, including subcontracts, and that support amounts charged to the OAG shall be maintained:

- 1) by a contractor, for three years from the date of final payment under the prime contract;
- 2) by a subcontractor, for three years from the date of final payment under the subcontract; and
- 3) by a contractor and subcontractor for such larger period of time as is necessary to complete any ongoing or announced audits.

b) Contract Audit

Types of Contracts Audited. The type of contract under which books and records should be audited is that in which price is based on costs or is subject to adjustment based on costs, or that in which auditing would be appropriate to assure satisfactory performance, such as a time and materials contract. Situations where an audit may be warranted include but are not limited to when a question arises in connection with:

- 1) the financial condition, integrity, and reliability of the contractor or subcontractor;
- 2) any prior audit experience;
- 3) the adequacy of the contractor's or subcontractor's accounting system;
- 4) the number or nature of invoices or reimbursement vouchers submitted by the contractor or subcontractor for payment;
- 5) the use of federal assistance funds;
- 6) the fluctuation of market prices affecting the contract; or
- 7) any other situation when the CPO or SPO finds that such an audit is necessary for the protection of the State's best interest.

Section 1300.7025 Written Determinations

EMERGENCY

a) Preparation and Execution

Where the Illinois Procurement Code or this Part requires a written determination, the officer required to prepare the determination may delegate its preparation, but the responsibility for and the execution of the determination shall not be delegated.

b) Content

Each written determination shall set out sufficient facts, circumstances, and reasoning as will substantiate the specific determination that is made.

c) Obtaining Supporting Information

While an officer is responsible for the execution of the written determination, other State personnel, particularly technical personnel, are responsible for furnishing to the cognizant official, in an accurate and adequate fashion, the information pertinent to the determination. When requested, such information shall be furnished in

ATTORNEY GENERAL

NOTICE OF EMERGENCY RULES

writing to the cognizant official who shall have the authority to decide the final form and content of the determination and to resolve any questions or conflicts arising with respect to the determination.

d) Forms

The CPO shall prescribe methods and operational procedures to be used in preparing written determinations.

e) Retention

Each written determination shall be filed in the solicitation or contract file to which it applies, shall be retained as part of such file for so long as the file is required to be maintained, and, except as otherwise provided by law or rule, shall be open to public inspection.

**Section 1300.7030 No Waiver of Sovereign Immunity
EMERGENCY**

Nothing in this Part shall be deemed to be a waiver of sovereign immunity.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Travel
- 2) Code Citation: 80 Ill. Adm. Code 2800
- 3) Section Numbers: Emergency Action:
2800. Appendix A Amend
- 4) Statutory Authority: Implementing and authorized by Sections 12, 12-1, 12-2, and 12-3 of the State Finance Act [30 ILCS 105/12, 12-1, 12-2 and 12-3] and authorized by the Travel Regulation Council (80 Ill. Adm. Code 3000).
- 5) Effective Date of Amendments: July 1, 1998
- 6) If this emergency rule is to expire before end of the 150-day period, please specify the date on which it is to expire: Not applicable
- 7) Date Filed in Agency's Principal Office: June 29, 1998
- 8) Reason for Emergency: There was not sufficient time to develop proposed amendments that could be processed through normal rulemaking and have the amendments effective July 1, 1998.
- 9) A Complete Description of the Subjects and Issues Involved: The emergency amendments are being filed to increase lodging reimbursement rates for agencies under the jurisdiction of the Governor's Travel Control Board.
- 10) Are there any proposed amendments to this Part pending? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 12) Information and questions regarding this amendment shall be directed to:

Stephen W. Seiple
720 Stratton Office Building
Springfield IL 62706
217/782-9669

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES
NOTICE OF EMERGENCY AMENDMENTS
SUBPART G: EXCEPTIONS TO THE RULES

Section
2800.700 Special Exceptions-Requested in Advance
2800.710 Ex Post Facto Exceptions

Appendix A Reimbursement Schedule
EMERGENCY

AUTHORITY: Implementing and authorized by Sections 12, 12-1, 12-2, and 12-3 of the State Finance Act (30 ILCS 105/12, 12-1, 12-2 and 12-3) and authorized by the Travel Regulation Council (80 Ill. Adm. Code 3000).

SOURCE: Amended March 11, 1976; amended at 2 Ill. Reg. 30, p. 215, effective August 1, 1978; new rules adopted at 4 Ill. Reg. 28, p. 155, effective July 1, 1980; old rules repealed at 4 Ill. Reg. 30, p. 1224, July 1, 1980; amended at 5 Ill. Reg. 150, effective January 1, 1981; amended at 6 Ill. Reg. 6682, effective July 1, 1982; amended at 7 Ill. Reg. 9205, effective August 1, 1983; amended at 8 Ill. Reg. 127, 130, effective January 1, 1984; amended at 8 Ill. Reg. 14243, effective August 1, 1984; codified at 8 Ill. Reg. 19350; amended at 10 Ill. Reg. 18014, effective October 6, 1986; Part repealed, new Part adopted at 12 Ill. Reg. 738, effective January 15, 1988; emergency amendment at 15 Ill. Reg. 13196, effective September 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17981, effective November 27, 1991; amended at 16 Ill. Reg. 4831, effective March 12, 1992; amended at 16 Ill. Reg. 13823, effective September 1, 1992; amended at 19 Ill. Reg. 36, effective January 1, 1995; amended at 19 Ill. Reg. 7858, effective July 1, 1995; amended at 20 Ill. Reg. 7379, effective May 13, 1996; emergency amendment at 22 Ill. Reg. 14683, effective July 1, 1998, for a maximum of 150 days.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES
NOTICE OF EMERGENCY AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE I: GENERAL TRAVEL CONTROL
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES/
GOVERNOR'S TRAVEL CONTROL BOARD

PART 2800
TRAVEL

SUBPART A: GENERAL

Section
2800.100 Definitions
2800.110 Application and Interpretation

SUBPART B: TRAVEL CONTROL SYSTEM

Section
2800.200 Travel Control System
2800.210 Travel Coordinator
2800.220 Travel Authority
2800.230 Government Charge Cards
2800.235 Expenses at Headquarters or Residence
2800.240 Preparation and Submission of Travel Vouchers
2800.250 Approval and Submission of Travel Vouchers
2800.260 Items Directly Billed
2800.270 Conference Registration Fees

SUBPART C: TRANSPORTATION EXPENSES

Section
2800.300 Incidental Expenses for Private and State Owned Automobiles

SUBPART D: LODGING

Section
2800.400 Conference Lodging
2800.410 Employee Owned or Controlled Housing

SUBPART E: PER DIEM MEALS

Section
2800.500 Conference Meals

SUBPART F: MISCELLANEOUS RULES

Section
2800.600 Lack of Receipts
2800.650 Headquarter Designation for Agency Heads

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Section 2800. APPENDIX A Reimbursement Schedule
EMERGENCY

The following rates are effective for Agencies under the jurisdiction of the Board.

Type of ReimbursementMileage

Auto

Rate

See Section 3000.300(f)(2) of the Travel Regulation Council Rules (80 Ill. Adm. Code 3000.300(f)(2))

Plane

\$0.40/mile

Per Diem/MealsWithin the State of Illinois

Breakfast

\$ 5.50

Lunch

\$ 5.50

Dinner

\$ 17.00

Per Diem -- Quarter

\$ 7.00

Per Diem -- Day

\$ 28.00

Outside the State of Illinois

Breakfast

\$ 6.50

Lunch

\$ 6.50

Dinner

\$ 19.00

Per Diem -- Quarter

\$ 8.00

Per Diem -- Day

\$ 32.00

Lodging

Chicago Metro

County of Cook

See Section 3000.400(b) of the Travel Regulation Council Rules (80 Ill. Adm. 3000.400(b))

Counties of Cook, DuPage,

Kane, Lake, and Will

\$-70+00

Counties of DuPage, Kane, Lake,

McHenry, and Will

\$80.00

Downstate Illinois

Counties of Champaign, Kankakee,

\$-50+00

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

LaSalle, McLean, Macon, Madison, Peoria, St. Clair, Sangamon, Tazewell, and Winnebago

\$60.00

All other Downstate Counties

\$50.00

Out-of-State

Washington, D.C. (also includes the cities of Alexandria, Falls Church, and Fairfax, and the counties of Arlington, Loudoun, and Fairfax in Virginia; and the counties of Montgomery and Prince Georges in Maryland) and

\$110.00

New York City (includes the boroughs of Bronx, Brooklyn, Manhattan, Queens, and Staten Island; Nassau and Suffolk Counties)

All other out-of-state locations

\$ 90.00

Out-of-Country

Actual Reasonable

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 1.4, effective 3/1/01, for a maximum of 150 days)

OFFICE OF THE COMPTROLLER
NOTICE OF EMERGENCY RULE

1) Heading of the Part: Standard Procurement

2) Code Citation: 44 Ill. Adm. Code 1120

3) Section Numbers:

- Proposed Action:
- 1120.01 New
 - 1120.05 New
 - 1120.08 New
 - 1120.10 New
 - 1120.15 New
 - 1120.25 New
 - 1120.525 New
 - 1120.1002 New
 - 1120.1510 New
 - 1120.1560 New
 - 1120.1570 New
 - 1120.1580 New
 - 1120.2005 New
 - 1120.2010 New
 - 1120.2012 New
 - 1120.2015 New
 - 1120.2020 New
 - 1120.2025 New
 - 1120.2030 New
 - 1120.2035 New
 - 1120.2036 New
 - 1120.2037 New
 - 1120.2038 New
 - 1120.2040 New
 - 1120.2043 New
 - 1120.2044 New
 - 1120.2045 New
 - 1120.2046 New
 - 1120.2047 New
 - 1120.2050 New
 - 1120.2055 New
 - 1120.2060 New
 - 1120.2560 New
 - 1120.2800 New
 - 1120.4005 New
 - 1120.4505 New
 - 1120.4510 New
 - 1120.4530 New
 - 1120.4535 New
 - 1120.4540 New
 - 1120.4545 New
 - 1120.5013 New
 - 1120.5015 New

OFFICE OF THE COMPTROLLER
NOTICE OF EMERGENCY RULE

- 1120.5020 New
- 1120.5030 New
- 1200.5035 New
- 1120.5310 New
- 1120.5510 New
- 1120.5520 New
- 1120.5530 New
- 1120.5540 New
- 1120.5550 New
- 1120.6010 New
- 1120.6500 New
- 1120.6510 New
- 1120.6520 New
- 1120.7000 New
- 1120.7010 New
- 1120.7015 New
- 1120.7020 New
- 1120.7025 New
- 1120.7030 New

4) Statutory Authority: Public Act 90-572, Section 1-30, effective July 1, 1998. [30 ILCS 25/1-30]

5) Effective Date of Rule: July 1, 1998.

6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which they expire: The emergency rule will expire upon adoption of the Comptroller's Standard Procurement Rules.

7) Date Filed in Agency's Principal Office: July 23, 1998.

8) Reason for Emergency: Given pending effective date of Procurement Act, emergency rules serve as a bridge to adoption of Standard Procurement Rules.

9) A Complete Description of the Subjects and Issues Involved: Section 1-30 of the Illinois Procurement Code requires that constitutional officers procure their needs in a manner substantially in accordance with the requirements of the Code, and that such officers promulgate rules no less restrictive than the requirements of the Code to govern procurements.

This rulemaking prescribes standard procurement rules for the Office of the Comptroller in accordance with the requirements of the Illinois Procurement Code.

10) Are there any proposed amendments to this Part pending? No

11) Statement of Statewide Policy Objectives: These proposed rules do not

OFFICE OF THE COMPTROLLER
NOTICE OF EMERGENCY RULE

affect units of local government.

- 12) Information and questions regarding this rule shall be directed to:

Keith J. Flanagan
Office of the Comptroller
201 State Capitol Building
Springfield, Illinois 62706-0001
217/782-5328

The full text of the emergency rule begins on the next page.

OFFICE OF THE COMPTROLLER
NOTICE OF EMERGENCY RULE

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENTS AND PROPERTY
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER XIV: COMPTROLLER

PART 1120
STANDARD PROCUREMENT

SUBPART A: GENERAL

Section	Title
1120.01 EMERGENCY	Policy
1120.05 EMERGENCY	Illinois Procurement Code
1120.08 EMERGENCY	Application
1120.10 EMERGENCY	Definitions of Terms Used in this Part
1120.15 EMERGENCY	Property Rights
1120.25 EMERGENCY	

SUBPART B: PROCUREMENT RULES

Section	Rules
1120.525 EMERGENCY	

SUBPART C: PROCUREMENT AUTHORITY

Section	Conduct of Procurements
1120.1002 EMERGENCY	

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section	Illinois Procurement Bulletin
1120.1510 EMERGENCY	Supplemental Notice
1120.1560 EMERGENCY	Error in Notice
1120.1570 EMERGENCY	Direct Solicitation
1120.1580 EMERGENCY	

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

Section
1120.2005 General Provisions
EMERGENCY
1120.2010 Competitive Sealed Bidding
EMERGENCY
1120.2012 Multi-Step Sealed Bidding
EMERGENCY
1120.2015 Competitive Sealed Proposals
EMERGENCY
1120.2020 Small Purchases
EMERGENCY
1120.2025 Sole Economically Feasible Source Procurement
EMERGENCY
1120.2030 Emergency Procurements
EMERGENCY
1120.2035 Competitive Selection Procedures for Professional and Artistic Services
EMERGENCY
1120.2036 Other Methods of Source Selection
EMERGENCY
1120.2037 Tie Bids and Proposals
EMERGENCY
1120.2038 Mistakes
EMERGENCY
1120.2040 Cancellation of Solicitations; Rejection of Bids or Proposals
EMERGENCY

SUBPART F: SUPPLIERS, PREQUALIFICATION, AND RESPONSIBILITY

Section
1120.2043 Suppliers
EMERGENCY
1120.2044 Vendor Lists
EMERGENCY
1120.2045 Prequalification
EMERGENCY
1120.2046 Responsibility
EMERGENCY

SUBPART G: BID, PROPOSAL, AND PERFORMANCE SECURITY

Section
1120.2047 Security Requirements
EMERGENCY

SUBPART H: SPECIFICATIONS AND SAMPLES

Section

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

1120.2050 Specifications
EMERGENCY
Section
1120.2055 Types of Contracts
EMERGENCY
SUBPART I: CONTRACT TYPE
Section
1120.2060 Duration of Contracts - General
EMERGENCY
SUBPART J: DURATION OF CONTRACTS

SUBPART K: CONTRACT MATTERS

Section
1120.2560 Prevailing Wage
EMERGENCY

SUBPART L: CONTRACT PRICING

Section
1120.2800 All Costs Included
EMERGENCY

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section
1120.4005 Real Property Leases and Capital Improvement Leases
EMERGENCY

SUBPART O: PREFERENCES

Section
1120.4505 Procurement Preferences
EMERGENCY
1120.4510 Resident Bidder Preference
EMERGENCY
1120.4530 Correctional Industries
EMERGENCY
1120.4535 Sheltered Workshops for the Disabled
EMERGENCY
1120.4540 Gas Mileage
EMERGENCY
1120.4545 Small Business
EMERGENCY

OFFICE OF THE COMPTROLLER
NOTICE OF EMERGENCY RULE

SUBPART P: ETHICS

Section
1120.5013 Conflicts of Interest
EMERGENCY
1120.5015 Negotiations for Future Employment
EMERGENCY
1120.5020 Exemptions
EMERGENCY
1120.5030 Revolving Door
EMERGENCY
1120.5035 Disclosure of Financial Interests and Potential Conflicts of Interest
EMERGENCY

SUBPART Q: CONCESSIONS

Section
1120.5310 Concessions
EMERGENCY

SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

Section
1120.5510 Complaints Against Vendors
EMERGENCY
1120.5520 Suspension
EMERGENCY
1120.5530 Settlement and Resolution of Contract and Breach
EMERGENCY
1120.5540 Violation of Statute or Rule
EMERGENCY
1120.5550 Protests
EMERGENCY

Section
1120.6010 Supply Management and Dispositions
EMERGENCY

SUBPART T: GOVERNMENTAL JOINT PURCHASING

Section
1120.6500 General
EMERGENCY
1120.6510 State Use of Other Contracts
EMERGENCY
1120.6520 No Agency Relationship

OFFICE OF THE COMPTROLLER
NOTICE OF EMERGENCY RULE

EMERGENCY

SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section
1120.7000 Severability
EMERGENCY
1120.7010 Government Furnished Property
EMERGENCY
1120.7015 Inspections
EMERGENCY
1120.7020 Records and Audits
EMERGENCY
1120.7025 Written Determinations
EMERGENCY
1120.7030 No Waiver of Sovereign Immunity
EMERGENCY

AUTHORITY: Implementing and authorized by Section 1-30 of the Illinois Procurement Code [30 ILCS 500/1-30].

SOURCE: Adopted by emergency rule at 22 Ill. Reg. 12007, effective JUL 01 1998.

SUBPART A: GENERAL

Section 1120.01 Title
EMERGENCY

This Part may be cited as the Comptroller's Procurement Rules.

Section 1129.05 Policy
EMERGENCY

All procurements for the Office of the Comptroller (IOC) shall be accomplished in the most economical, expeditious and commercially reasonable manner that is in accordance with statute, this Part and other applicable rules.

Section 1120.08 Illinois Procurement Code
EMERGENCY

Articles 1, 15, 20, 25, 35, 40, 45, 50, and 53 of the Illinois Procurement Code [30 ILCS 500/Arts. 1, 15, 20, 25, 35, 40, 45, 50, and 53] (the Code) will be referenced in this Part as though applicable to the IOC, and needs shall be procured in a manner substantially in accordance with those provisions of the Code, except to the extent otherwise provided in this Part. For purposes of this Part, any reference in the Code or this Part to the Chief Procurement Officer (CPO) means the Comptroller or his/her designee. The Comptroller may

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

appoint one or more State Purchasing Officers (SPOs).

Section 1120.10 Application EMERGENCY

- a) The Code and this Part apply to those procurements for which the vendors were first solicited on or after July 1, 1998.
- b) Procurements for which vendors were first solicited on or before June 30, 1998, shall be conducted pursuant to legal requirements in effect at the time of the solicitation. The terms and conditions and the rights and obligations under contracts resulting from such procurements shall not be impaired.
- c) A solicitation occurs on or before June 30, 1998, as follows:
 - 1) When advertising was required in the Official State Newspaper, the first advertising must run no later than June 30, 1998.
 - 2) When advertising was not required:
 - A) but if the procurement was advertised, the first advertisement must have run no later than June 30, 1998;
 - B) if the procurement was by direct solicitation by mail, the solicitation must have been postmarked or placed in the control of a private carrier no later than June 30, 1998;
 - C) if the procurement was by direct solicitation by fax, the fax must show a transmission date no later than June 30, 1998;
 - D) if the procurement was solicited in-person or by telephone, the solicitation must have occurred no later than June 30, 1998, and the individual who made the solicitation must state in writing when the procurement was discussed, and must name the party with whom the discussion took place.

3) In all circumstances, the solicitations must be for the procurement of particular needs. A general discussion to determine if there is any interest is not considered a solicitation.

- d) This Part shall not apply to:
 - 1) agreements among governments, or between State governmental bodies, except as specifically provided in the Code;
 - 2) grants;
 - 3) hiring of an individual as employee and not as an independent contractor, whether pursuant to an employment code or policy or by contract directly with that individual;
 - 4) collective bargaining contracts;
 - 5) purchase of real estate; or
 - 6) contracts necessary to prepare for anticipated litigation, enforcement actions, or investigations, provided that the Comptroller's chief legal counsel shall give prior approval.

Section 1120.15 Definitions of Terms Used in This Part EMERGENCY

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

As used throughout this Part, terms defined in the Illinois Procurement Code shall have the same meaning as in the Code and as further defined below, and each term listed in this Section shall have the meaning set forth below unless its use clearly requires a different meaning. Terms may be defined in particular Sections for use in that Section.

"Bid" - The response to an Invitation for Bids.

"Bidder" - Any person who submits a bid.

"Brand Name or Equal Specification" - A specification that uses one or more manufacturer's names or catalogue numbers to describe the standard of quality, performance, and other characteristics needed to meet State requirements, and that allows the submission of equivalent products.

"Brand Name Specification" - A specification limited to one or more items by manufacturers' names or catalogue numbers.

"Code" - The Illinois Procurement Code [30 ILCS 500].

"Contract" - A contract may be in written or oral form. The term contract as used in the Code and this Part does not include: goods or services the terms governing which are established by tariff of the Illinois Commerce Commission or the Federal Communications Commission, bonds issued by or on behalf of any State agency, or contracts, other than for "concessions", where the State agency signs, but has no financial obligation to the other parties.

"Day" - Calendar day. In computing any period of time, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a State holiday, in which event the period shall run to the end of the next business day.

"DCMS" - The Department of Central Management Services.

"IOC" - The Office of the Comptroller.

"Procurement Officer" - The CPO, appropriate SPO, or a designee of either who is charged with conducting a particular procurement.

"Proposal" - The response to a Request for Proposals.

"Qualified Products List" - An approved list of supplies, services, or construction items, described by model or catalogue numbers, that, prior to competitive solicitation, the State has determined will meet the applicable specification requirements.

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

"Specification" - Any description of the physical, functional, or performance characteristics of, or of the nature of, a supply, service, or construction item. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply, service, or construction item for delivery. Unless the context requires otherwise, the terms "specification" and "purchase description" are used interchangeably throughout this Part.

"Specification for a Common or General Use Item" - A specification that has been developed and approved for repeated use in procurements.

Section 1120.25 Property Rights EMERGENCY

Receipt of an Invitation for Bids or other procurement document, or submission of any response thereto, or other offer confers no right to receive an award or contract, nor does it obligate the State in any manner.

SUBPART B: PROCUREMENT RULES

Section 1120.525 Rules EMERGENCY

To the extent practicable, the IOC may avail itself of master, scheduled or open-ended contracts established by DCMS; items available from the Paper and Printing Warehouse; and DCMS contracts for telecommunications equipment, software and services, paper and envelopes, and vehicles and vehicle services. The CPO or SPO may submit purchase requests to DCMS in accordance with rules promulgated by DCMS.

SUBPART C: PROCUREMENT AUTHORITY

Section 1120.1002 Conduct of Procurements EMERGENCY

The Comptroller or his/her designee shall serve as CPO for purposes of the Code and this Part and may conduct any or all procurements on behalf of the IOC. The CPO may appoint one or more SPOs to conduct procurement in accordance with the terms of the appointment and this Part.

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section 1120.1510 Illinois Procurement Bulletin EMERGENCY

Notice of any procurement action required by the Code to be publicized in the Illinois Procurement Bulletin will be forwarded to DCMS for inclusion in the appropriate volume of the Bulletin in accordance with rules promulgated by DCMS

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

(44 Ill. Adm. Code 1).

Section 1120.1560 Supplemental Notice EMERGENCY

Publication in the Bulletin may be supplemented by publication elsewhere at the discretion of the IOC.

Section 1120.1570 Error in Notice EMERGENCY

When a required publication contains an error, the error may be corrected by a single notice published in the Bulletin.

Section 1120.1580 Direct Solicitation EMERGENCY

In addition to giving notice in the Bulletin, the IOC may directly contact prospective vendors. Direct solicitation may be oral or in writing, but care should be taken to ensure that all vendors solicited in this manner receive the same information. When making direct solicitations, at least three vendors should be contacted.

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section 1120.2005 General Provisions EMERGENCY

- a) Late Bids or Proposals, Late Withdrawals and Late Modifications.
 - 1) Definition. Any bid or proposal received after the time and date for receipt, or at other than the specified location even if on time, is late. Any withdrawal or modification of a bid or proposal received after the time and date set for opening of bids or proposals is late.
 - 2) Treatment. No late bid or proposal, late modification, or late withdrawal will be considered unless it would have been timely but for the action or inaction of IOC personnel directly serving the procurement activity (e.g., providing the wrong address).
 - 3) Records. Records shall be made and kept for each late bid or proposal, late modification, or late withdrawal.
 - 4) Other Submissions. Any other submission that has a time or date deadline shall be treated in the same manner as a late bid.
 - b) Extension of Time.
 - 1) The date or time for submitting a bid or proposal or modifying or withdrawing a bid or proposal may be extended by the IOC prior to such date or time for the convenience of the IOC. Reasons for extension include, but are not limited to, allowing additional time for submissions to account for inclement weather, labor

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

- strikes, accidents and other such reasons.
- 2) After opening bids or proposals, the CPO or SPO may request bidders or offerors to extend the time during which the IOC may accept bids or proposals, provided that, with regard to bids, no other change is permitted. The reasons for requesting such extension shall be documented.
- c) Electronic and Facsimile Submissions.
- 1) The Invitation for Bids (IFB) or Request for Proposals (RFP) may state that electronic and facsimile machine submissions will be considered if they are received at the designated office by the time and date set for receipt. Any required attachments will be submitted as stated in the IFB or RFP.
- 2) Electronic submissions authorized by specific language in the IFB or RFP will be opened in accordance with electronic security measures in effect at the time of opening. Unless the electronic submission procedures provide for a secure receipt, vendor assumes risk of premature disclosure due to submission in unsealed form.
- 3) Fax submissions authorized by specific language in the IFB or RFP will be placed in a sealed container upon receipt and opened as other submissions. Vendor assumes risk of premature disclosure due to submission in unsealed form.
- d) Intent to Submit.
- The Invitation for Bids or the Request for Proposals may require that vendors submit, by a certain time and date, a notice of their intent to submit a bid or proposal in response to the IFB or RFP. Bids and proposals submitted without complying with the notice of intent requirement may be rejected.
- e) Only One Bid or Proposal Received.
- If only one bid or proposal is received, an award may be made to the single bidder or offeror if the CPO or SPO finds that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond, or there is not adequate time for resolicitation. Otherwise:
- 1) new bids or offers may be solicited;
 - 2) the procurement may be canceled; or
 - 3) if the CPO or SPO determines in writing that the need for the supply or service continues, but that the price of the one bid is not fair and reasonable and there is no time for resolicitation or resolicitation would likely be futile, the procurement may then be conducted with any vendor under Section 1120.2025 (Sole Economically Feasible Source Procurement) or Section 1120.2030 (Emergency Procurements), as appropriate. The CPO or SPO shall attempt to negotiate the price to a more acceptable level.
- f) Alternate or Multiple Bids or Proposals.
- 1) Alternate bids or proposals may be accepted if:
- A) permitted by the solicitation and in accordance with instructions in the solicitation; or

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

- B) only one vendor responded, in which case the alternate submission may be evaluated and treated in accordance with Section 1120.2025 (Sole Economically Feasible Source Procurement) of this Part; or
- C) the low bidder, who has met all requirements of the solicitation, has provided a lower cost alternative that meets all of the material requirements of the specifications; or
- D) a vendor clearly indicates a primary submission, then that primary submission shall be considered for award as though it were the only bid or proposal submitted by the vendor.
- 2) Multiple bids or proposals may be accepted if:
- A) permitted by the solicitation and in accordance with instructions in the solicitation; or
 - B) only one vendor responded, one or more of the submissions may be evaluated, provided that, in the case of bids, only the lowest cost bid meeting specifications may be considered.
- g) Multiple Items.
- An Invitation for Bids or Request for Proposals may call for pricing of multiple items of similar or related type with award based on individual line item, group total of certain items, or grand total of all items.
- h) "All or None" Bids or Proposals.
- "All or none" bids or proposals may be accepted if the evaluation shows an all or none award to be in the State's best interest.
- i) Conditioning Bids or Proposals Upon Other Awards.
- Any bid or proposal that is conditioned upon receiving award of the particular contract being solicited and one or more other State contracts shall:
- 1) be rejected unless the vendor removes the condition; or
 - 2) be evaluated and award made to that vendor if the vendor is also independently evaluated as the winner of the other IFBs or RFPs, provided the agency need not delay procurement actions to accommodate the vendor's all or none condition.
- j) Unsolicited Offers.
- 1) Processing of Unsolicited Offers. The CPO or the SPO may consider unsolicited offers and shall have final authority with respect to evaluation, acceptance and rejection of such unsolicited offer.
- 2) Conditions for Consideration. An unsolicited offer must be in writing and must be sufficiently detailed to allow a judgment to be made concerning the potential utility of the offer to the State.
- 3) Evaluation. The unsolicited offer may be evaluated to determine its utility to the State and whether it would be to the State's advantage to enter into a contract based on such offer. An unsolicited offer that meets the requirements set forth above may

OFFICE OF THE COMPTROLLER
NOTICE OF EMERGENCY RULE

be considered for award if the procurement also meets the requirements of Section 1120.2025 (Sole Economically Feasible Source Procurement) or Section 1120.2020 (Small Purchases), in which case those procedures shall be followed as applicable.

- 4) Confidentiality. Any request for confidentiality of data contained in an unsolicited offer must be made in writing. If agreement cannot be reached on confidentiality, the IOC shall reject the unsolicited offer.

- k) Clarification of Bids and Proposals.

The IOC may request that a vendor clarify its bid or proposal as a part of the evaluation process. A vendor shall not be allowed to change its bid or proposal in response to a request for clarification.

- 1) Extension of Time on Indefinite Quantity Contracts.

The time of performance of an indefinite quantity contract may be extended upon agreement of the parties, provided the extension is for 90 days or less and the CPO or the SPO determines in writing that it is not practical to award another contract at the time of such extension. A clarification is not an opportunity for discussion or for submission of best and final as authorized elsewhere in this Part.

- m) Increase in Quantity on Definite Quantity Contracts.

1) The quantity that may be ordered from a definite quantity contract may be increased by up to 20% provided the CPO or SPO determines that separate bidding for the additional quantity is not likely to achieve lower pricing.

- 2) The quantity may be increased by any percentage provided the dollar value of the increase does not exceed the small purchase threshold applicable to the type of good or service.

- n) Novation or Change of Name.

1) Assignment. No IOC contract is transferable, or otherwise assignable, without the written consent of the CPO; however, a vendor may assign monies receivable under a contract after due notice to the IOC. Assignment may require the execution of a contract with the assignee and in such cases the assignee must meet all requirements for contracting with the IOC.

- 2) Recognition of a Successor in Interest; Novation. When in the best interest of the State, a successor in interest may be recognized in a novation agreement in which the transferor and the transferee shall agree that:

- A) the transferee assumes all of the transferor's obligations;
 - B) the transferee meets all requirements for contracting with the State;
 - C) the transferor waives all rights under the contract as against the IOC; and
 - D) unless the transferor guarantees performance of the contract by the transferee, the transferee shall, if required by the IOC, furnish a satisfactory performance bond.
- 3) Change of Name. When a vendor requests to change the name in which it holds a contract with the IOC, the CPO shall, upon

OFFICE OF THE COMPTROLLER
NOTICE OF EMERGENCY RULE

receipt of a document indicating such change of name, enter into an agreement with the requesting vendor to effect such a change of name. The agreement changing the name shall specifically indicate that no other terms and conditions of the contract are thereby changed.

- o) Contracting for Installment Purchase Payments, Including Interest. Contracts may provide for installment purchase payments, including interest charges, over a period of time. The interest rate may not exceed that established by law, including 30 ILCS 305.

**Section 1120.2010 Competitive Sealed Bidding
EMERGENCY**

- a) Application.

Competitive sealed bidding is the required method of source selection, except as allowed by the Code and this Part. The provisions of this Section apply to every procurement required to be conducted by competitive sealed bidding.

- b) The Invitation for Bids.

1) Use. The invitation for bids is used to initiate a competitive sealed bid procurement.

- 2) Content. The invitation for bids shall include, at a minimum, the following:

- A) instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the office to which bids are to be delivered, the maximum time for bid acceptance by the State, and any other special information;
- B) the purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description; and
- C) the contract terms and conditions, including warranty and bonding or other security requirements, as applicable.

- 3) Incorporation by Reference. The invitation for bids may incorporate documents by reference provided that the invitation for bids specifies where such documents can be obtained.

- c) Bidding Time.

Bidding time is the period of time between the date of notice or distribution of the invitation for bids and the time and date set for receipt of bids. In each case, bidding time will be set to provide bidders a reasonable time to prepare their bids. A minimum of 14 days shall be provided unless a shorter time is authorized by the Code or this Part.

- d) Bidder Submissions.

- 1) Bid Form. The invitation for bids may provide a form that shall include space in which the bid price shall be inserted and that the bidder shall sign and submit along with all other necessary

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

submissions.

- 2) Bid Samples and Descriptive Literature.
 - A) Bid samples or descriptive literature may be required when necessary to evaluate required characteristics of the items bid.
 - B) Unsolicited bid samples or descriptive literature is submitted at the bidder's risk, may not be examined or tested, will not be deemed to vary any of the provisions of the Invitation for Bids, and may not be utilized by the vendor to contest a decision or understanding with the State.
- e) Public Notice.
 - 1) Publication. Every procurement for goods and services in excess of \$10,000 that must be procured using an Invitation for Bids shall be publicized in the Illinois Procurement Bulletin.
 - 2) Public Availability. A copy of the Invitation for Bids shall be made available for public inspection.
 - 3) Distribution. Invitations for Bids or Notices of the Availability of Invitations for Bids may be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing competition. Notices of Availability shall indicate where Invitations for Bids may be obtained; generally describe the supply or service desired; and indicate the due date for bids; and may contain other appropriate information. When appropriate, the SPO may require payment of a fee or a deposit for supplying the Invitation for Bids.
- f) Pre-Bid Conference.
 - A) A pre-bid conference may be conducted to enhance understanding of the procurement requirements. The pre-bid conference shall be announced as a part of the Invitation for Bids notice. The conference may be designated as "attendance mandatory" or "attendance optional". The conference should be held long enough after the Invitation for Bids has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids. Nothing stated at the pre-bid conference shall change the Invitation for Bids unless a change is made by written amendment to the Invitation for Bids. Amendments shall be supplied to all those prospective bidders known to have received an Invitation for Bids. If the conference is mandatory, the amendment shall be supplied to attendees only.
- g) Amendments to Invitations for Bids.
 - 1) Form. Amendments to Invitations for Bids shall be clearly identified and shall reference the portion of the IFB they amend.
 - 2) Distribution. Amendments shall be sent to all prospective bidders known to have received an Invitation for Bids.
 - 3) Timeliness. Amendments shall be distributed within a reasonable time to allow prospective bidders to consider them in preparing their bids. If the time and date set for receipt of bids will

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

not permit such preparation, the amendment shall extend the response time. If necessary, the response time may be extended by fax or telephone and confirmed in the amendment.

- h) Pre-Opening Modification or Withdrawal of Bids.
 - 1) Procedure. Bids may be modified or withdrawn by written notice received in the office designated in the Invitation for Bids prior to the time and date set for bid opening. A fax modification or withdrawal, or withdrawal received by telephone prior to the time and date set for bid opening, will be effective if followed in writing.
 - 2) Disposition of Bid Security. If a bid is withdrawn in accordance with this Section, the bid security, if any, shall be returned to the bidder.
 - 3) Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.
- i) Receipt, Opening and Recording of Bids.
 - 1) Receipt. Upon its receipt, each bid and modification shall be time-stamped but not opened and shall be stored in a secure place until the time and date set for bid opening. If a bid is opened in error, the file shall so state.
 - 2) Opening and Recording.
 - A) Bids and modifications shall be opened publicly at the time, date, and place designated in the Invitation for Bids. Opening shall be witnessed by a State employee or any other person present, but the person opening bids shall not serve as witness. The name of each bidder, the bid price, and such other information as is deemed appropriate by the SPO shall be recorded and the name of each bidder read aloud or otherwise made available. The names of witnesses shall also be recorded at the opening.
 - B) The winning bid shall be available for public inspection after award, along with the record of each unsuccessful bid.
 - 3) Confidential Data. The SPO shall examine the bids to determine the validity of any requests for nondisclosure of trade secrets and other proprietary data identified in writing. If the parties do not agree as to the disclosure of data or other information, the bid shall be rejected as nonresponsive.
- j) Bid Evaluation and Award.
 - 1) General. The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids, except as permitted in the Code and this Part. The Invitation for Bids shall set forth the requirements and criteria that will be used to determine the lowest responsive bidder. No bid shall be evaluated for any requirements or criteria that are not disclosed in the Invitation for Bids.
 - 2) Responsibility. Responsibility of prospective vendors is covered

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

by Section 1120.2046 (Responsibility) of this Part.

- 3) Responsiveness. A bid must conform in all material respects to the Invitation for Bids.

A) Product or Service Acceptability. The Invitation for Bids shall set forth any evaluation criteria to be used in determining product or service acceptability. It may require the submission of bid samples, descriptive literature, technical data, references, licenses, or other information or material. It may also provide for accomplishing any of the following prior to award:

i) inspection or testing of a product or service prior to award for such characteristics as quality or

workmanship;

ii) examination of such elements as appearance, finish, taste, or feel;

iii) other examinations to determine whether the product or service conforms with any other purchase description requirements.

B) The acceptability evaluation is not conducted for the purpose of determining whether one bidder's product or service capability is superior to another, but only to determine that a bidder's offering is acceptable as set forth in the Invitation for Bids. Any bidder's offering that does not meet the acceptability requirements shall be rejected.

4) Determination of Lowest Bidder. Following determination of product or service acceptability as set forth in this subsection (j), bids will be evaluated to determine which bidder offers the lowest cost to the State in accordance with the evaluation criteria set forth in the Invitation for Bids. Only objectively measurable criteria that are set forth in the Invitation for Bids shall be applied in determining the lowest bidder. Examples of such criteria include, but are not limited to, transportation cost and ownership or life-cycle cost formulas. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible such evaluation factors shall be reasonable estimates based upon information the IOC has available concerning future use and shall treat all bids equitably. Pricing for optional supplies or services, or for renewal terms, shall not be considered.

5) Price Negotiation. This Section permits negotiations with the low bidder to obtain a lower price for the item bid.

k) Documentation of Award.

Following award, a record showing the successful bidder shall be made a part of the procurement file.

l) Award to Other Than Low Bidder.

The SPO may award to other than the lowest responsible and responsive bidder upon a written determination that award to another bidder is in

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

the State's best interest. The name of the bidder selected, pricing, and the reasons for selecting this bidder instead of the low bidder must be published in the Bulletin.

m)

The successful bidder shall be notified of award and such notification may be in the form of a letter, purchase order or other clear communication. In procurements over the small purchase limit set in Section 1120.2020 (Small Purchases), notice of award shall be published in the Bulletin.

Section 1120.2012 Multi-Step Sealed Bidding

EMERGENCY

a) Definition. Multi-step sealed bidding is a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the IOC, and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase have their price bids considered.

b) Conditions for Use. The multi-step sealed bidding method may be used when it is not practical to prepare initially a definitive purchase description that will be suitable to permit an award based on price. Multi-step sealed bidding may be used when it is considered desirable:

1) to invite and evaluate possible diverse technical offers to determine their acceptability to fulfill the purchase description requirements; and

2) to conduct discussions for the purposes of facilitating understanding of the technical offer and purchase description requirements and, where appropriate, obtain supplemental information, permit amendments of technical offers, or amend the purchase description.

c) Pre-Bid Conferences in Multi-Step Sealed Bidding. Prior to the submission or evaluation of unpriced technical offers, a pre-bid conference as contemplated by Section 1120.2010(f) (Pre-Bid Conferences) may be conducted by the SPO.

d) Procedure for Phase One of Multi-Step Sealed Bidding.

1) Form. Multi-step sealed bidding shall be initiated by the issuance of an Invitation for Bids in the form required by Section 1120.2010 (Competitive Sealed Bidding), except as provided in this Section. In addition to the requirements set forth in Section 1120.2010, the multi-step Invitation for Bids shall state:

A) that unpriced technical offers are requested;

B) whether priced bids are to be submitted at the same time as unpriced technical offers; if they are, such priced bids shall be submitted in a separate sealed envelope;

C) that it is a multi-step sealed bid procurement, and priced bids will be considered only in the second phase and only

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

from those bidders whose unpriced technical offers are found acceptable in the first phase;

- D) the criteria to be used in the evaluation of the unpriced technical offers;
- E) that the IOC, to the degree the SPO finds necessary, may conduct oral or written discussions of the unpriced technical offers;
- F) that the item being procured shall be furnished generally in accordance with the bidder's technical offer as found to be finally acceptable and shall meet the requirements of the Invitation for Bids.

2) Amendments to the Invitation for Bids. After receipt of unpriced technical offers, amendments to the Invitation for Bids shall be distributed only to bidders who submitted unpriced technical offers, and they shall be permitted to submit new unpriced technical offers or to amend those submitted. If, in the opinion of the SPO, a contemplated amendment will significantly change the nature of the procurement, the Invitation for Bids may be canceled in accordance with Section 1120.2040 (Cancellation of Solicitation; Rejection of Bids or Proposals) and a new Invitation for Bids issued.

3) Receipt and Handling of Unpriced Technical Offers. Unpriced technical offers submitted by bidders shall be opened in the presence of at least one witness. Such offers shall not be disclosed to unauthorized persons. Bidders may request nondisclosure of trade secrets and other proprietary data identified in writing.

4) Evaluation of Unpriced Technical Offers. The unpriced technical offers submitted by bidders shall be evaluated solely in accordance with the criteria set forth in the Invitation for Bids. The unpriced technical offers shall be categorized as:

- A) acceptable;
- B) potentially acceptable, that is, reasonably susceptible of being made acceptable; or
- C) unacceptable, in which case the SPO shall record in writing the basis for finding an offer unacceptable and make it part of the procurement file.

The SPO may initiate phase two of the procedure if, in the SPO's opinion, there are sufficient acceptable unpriced technical offers to assure effective price competition in the second phase without technical discussions. If the SPO finds that such is not the case, the SPO may commence discussions of the unpriced technical proposals.

5) Discussion of Unpriced Technical Offers. The SPO may conduct discussions with any vendor who submits an acceptable or potentially acceptable technical offer. During the course of such discussions the SPO shall not disclose any information derived from one unpriced technical offer to any other bidder. Any such

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

bidder may submit supplemental information amending its technical offer at any time until the closing date established by the SPO. Such submission may be made at the request of the SPO or upon the bidder's own initiative.

6) Unacceptable Unpriced Technical Offer. When the SPO determines a bidder's unpriced technical offer to be unacceptable, such offeror shall not be afforded an additional opportunity to supplement its technical offer.

e) Procedure for Phase Two.

1) Initiation. Upon the completion of phase one, the SPO shall either:

- A) open priced bids submitted in phase one (if priced bids were required to be submitted) from bidders whose unpriced technical offers were found to be acceptable; or
- B) if priced bids have not been submitted, invite each acceptable bidder to submit a priced bid.

2) Conduct. Phase two shall be conducted as any other competitive sealed bid procurement except:

- A) no public notice need be given of this invitation to submit priced bids because such notice was previously given;
- B) after award, the unpriced technical offer of the successful bidder shall be disclosed as follows: The SPO shall examine written requests of confidentiality for trade secrets and proprietary data in the technical offer of such bidder to determine the validity of any such requests. If the parties do not agree as to the disclosure of data, the SPO shall reject the offer. Such technical offer shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data; and
- C) unpriced technical offers of bidders who are not awarded the contract shall not be open to public inspection.

Section 1120.2015 Competitive Sealed Proposals
EMERGENCY

a) Competitive sealed proposals may be used whenever permitted by the Code and as described in this Section.

b) The competitive sealed proposal method of source selection may be used to procure the following categories:

- 1) electronic data processing equipment, software, and services;
- 2) telecommunications equipment, software, and services;
- 3) consulting services; and
- 4) employee benefits and management of those benefits.

c) Competitive sealed proposals may be used on a case-by-case basis when it is determined that competitive sealed bidding is either not practicable or advantageous.

- 1) "Practicable" Distinguished from "Advantageous". As used in Section 20-15 (Competitive Sealed Proposals) of the Illinois

OFFICE OF THE COMPTROLLER
NOTICE OF EMERGENCY RULE

Procurement Code and this Section, the term "practicable" denotes what may be accomplished or put into practical application, and "advantageous" connotes a judgmental assessment of what is in the State's best interest. Competitive sealed bidding may be practicable, that is, reasonably possible, but not necessarily advantageous, that is, in the State's best interest. Before a procurement may be conducted by competitive sealed proposals, the SPO shall determine in writing that competitive sealed bidding is either not practicable or not advantageous to the State.

- 2) General Discussion.
 - A) If competitive sealed bidding is not practicable or is not advantageous, competitive sealed proposals should be used.
 - B) The key element in determining advantageousness is the need for flexibility. The competitive sealed proposal method differs from competitive sealed bidding in two important ways:
 - i) it permits discussions with competing offerors and changes in their proposals, including price; and
 - ii) it allows comparative judgmental evaluations to be made when selecting among acceptable proposals for award of the contract.
- C) When evaluation factors involve the relative abilities of offerors to perform, including degrees of experience or expertise, when the types of supplies or services may require the use of comparative, judgmental evaluations to evaluate them adequately, or when the type of need to be satisfied involves weighing aesthetic values to the extent that price is a secondary consideration, use of competitive sealed proposals is the appropriate procurement method.
- 3) When Competitive Sealed Bidding Is Not Practicable. Competitive sealed bidding is not practicable unless the nature of the procurement permits award to a low bidder who agrees by its bid to perform without condition or reservation in accordance with the purchase description, delivery or performance schedule, and all other terms and conditions of the Invitation for Bids. Factors to be considered in determining whether competitive sealed bidding is not practicable include:
 - A) whether the contract needs to be other than a fixed-price type;
 - B) whether oral or written discussions may need to be conducted with offerors concerning technical and price aspects of their proposals;
 - C) whether offerors may need to be afforded the opportunity to revise their proposals, including price;
 - D) whether award may need to be based upon a comparative evaluation as stated in the Request for Proposals of differing price, quality, and contractual factors in order to determine the most advantageous offering to the IOC.

OFFICE OF THE COMPTROLLER
NOTICE OF EMERGENCY RULE

Quality factors include technical and performance capability and the content of the technical proposal; and

- E) whether the primary consideration in determining award may not be price.

- 4) When Competitive Sealed Bidding Is Not Advantageous. A determination may be made to use competitive sealed proposals if it is determined that it is not advantageous to the IOC, even though practicable, to use competitive sealed bidding. Factors to be considered in determining whether competitive sealed bidding is not advantageous include:

- A) if prior procurements indicate that competitive sealed proposals may result in more beneficial contracts for the IOC; and
- B) whether the factors listed in subsection (c)(3) of this Section are desirable in conducting a procurement rather than necessary.

- d) Content of the Request for Proposals.

The Request for Proposals shall be prepared in accordance with Section 1120-2010 (Competitive Sealed Bidding) provided that it shall also include:

- 1) a statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award, but that proposals may be accepted without such discussions; and
- 2) a statement of when and how price should be submitted.

- e) Receipt and Registration of Proposals.

- 1) Proposals and modifications shall be opened publicly at the time, date and place designated in the Request for Proposals. Opening shall be witnessed by a State employee or by any other person present but the person opening proposals shall not serve as witness. A record shall be prepared that shall include the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the supply or service item offered. The record of proposals shall be open to public inspection after award of the contract.

- 2) proposals and modifications shall be opened in a manner to avoid disclosing contents to competitors. Only State personnel and contractual agents may review the proposals prior to award.

- f) Evaluation of Proposals.

- 1) Evaluation Factors in the Request for Proposals. The Request for Proposals shall state all of the evaluation factors, including price, and their relative importance.
- 2) Evaluation. The evaluation shall be based on the evaluation factors set forth in the Request for Proposals. Factors not specified in the Request for Proposals shall not be considered. Numerical rating systems may be used but are not required.
- 3) Classifying Proposals. For the purpose of conducting discussions, proposals shall be initially classified as:

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

- A) acceptable;
- B) potentially acceptable, that is, reasonably susceptible of being made acceptable; or
- C) unacceptable.

Offerors whose proposals are unacceptable shall be so notified promptly.

g) Proposal Discussions with Individual Offerors.

- 1) "Offerors" Defined. For the purposes of Section 20-15(f) (Competitive Sealed Proposals, Discussion with Responsible Offerors and Revisions to Proposals) of the Illinois Procurement Code and this Section, the term "offerors" includes only those businesses submitting proposals that are acceptable or potentially acceptable. The term shall not include businesses who submitted unacceptable proposals.

2) Purposes of Discussions. Discussions are held to:

- A) promote understanding of the State's requirements and the offerors' proposals; and
- B) facilitate arriving at a contract that will be most advantageous to the State, taking into consideration price and the other evaluation factors set forth in the Request for Proposals.

- 3) Conduct of Discussions. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. If during discussions there is a need for any substantial clarification of, or change to, the Request for Proposals, the Request shall be amended to incorporate such clarification or change. Auction techniques (revealing one offeror's price to another) and disclosure of any information from competing proposals are prohibited. Any substantial oral clarification of a proposal shall be reduced to writing by the offeror.

- 4) Best and Final Offers. The SPO may request best and final offers from those offerors deemed acceptable after completion of any discussions. Best and final offers shall be submitted by a specified date and time. The SPO may conduct additional discussions or change the IOC's requirements and require another submission of best and final offers. If an offeror does not submit either a notice of withdrawal or another best and final offer, that offeror's immediate previous offer will be construed as its best and final offer.

h) Award.

An award shall be made by the SPO pursuant to a written determination showing the basis on which the award was found to be most advantageous to the State, based on the factors set forth in the Request for Proposals.

i) Publicizing Awards.

After a contract is awarded, notice of award shall be posted in the SPO's office. When the award exceeds the small purchase limit set in

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

Section 1120.2020 of this Part, notice of award shall be published in the Bulletin.

Section 1120.2020 Small Purchases
EMERGENCY

a) Application.

- 1) Procurements of \$10,000 or less for supplies or services, other than professional and artistic, may be made without notice, competition or use of any prescribed method of source selection.
- 2) Procurements of less than \$20,000 for professional and artistic services and that have a non-renewal term of one year or less may be made without notice, competition or use of any prescribed method of source selection.

- b) In determining whether a contract is under the limit, the value of the contract for the full term and all optional renewals shall be utilized. The stated value of the goods or services, plus any optional goods and services, shall be utilized. When the term is calculated month-to-month or in a similar fashion, the amount shall be calculated for a twelve month period.

- c) Procurement requirements shall not be artificially divided to avoid using the other source selection methods set forth in Section 20-5 of the Illinois Procurement Code.

- d) If, after signing the contract, the actual need is determined to be \$10,000 or more for supplies or services or \$20,000 for professional and artistic services, and the IOC determines that procurement is not appropriate, the procedures for sole source or emergency procurement, whichever is applicable, must be complied with to obtain additional supplies or services.

Section 1120.2025 Sole Economically Feasible Source Procurement
EMERGENCY

a) Application.

The provisions of this Section apply to procurement from a sole economically feasible source (referred to as sole source) unless the estimated amount of the procurement is within the limit set in Section 1120.2020 (Small Purchases) or unless emergency conditions exist as defined in Section 1120.2030 (Emergency Procurements).

b) Conditions for Use of Sole Source Procurement.

Sole source procurement is permissible when a requirement is available from only a single supplier or when only one supplier is deemed economically feasible. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror authorized to provide that item. The following are examples of circumstances that could necessitate sole source procurement:

- 1) when the compatibility of equipment, accessories, replacement

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

parts, or service is a paramount consideration;

- 2) when a sole supplier's items are needed for trial use or testing;
- 3) when a sole supplier's item is to be procured for commercial resale;
- 4) when public utility regulated services are to be procured; and
- 5) when the item is copyrighted or patented and the item or service is not available except from the holder of the copyright or patent.

c) Changes.

Changes to existing contracts germane to the original contract that are necessary or desirable to complete the project and that can be best accomplished by the contract holder may be procured under this Section.

d) SPO to Determine.

- 1) The determination as to whether a procurement shall be made as a sole source shall be made by the SPO. Such determination and the basis therefore shall be in writing. Such officer may specify the application of such determination and the duration of its effectiveness.

- 2) Any purchase request submitted to the SPO that a procurement be restricted to one potential vendor shall be accompanied by an explanation as to why no other vendor will be suitable or acceptable to meet the need.

e) Publication of Sole Source Notice.

The Purchasing Agency shall publish in the Bulletin notice of intent to contract with that vendor at least 14 days prior to execution of the contract.

- 1) If no challenge to this determination is made by a vendor within the 14 day period, the SPO may execute a contract with that vendor.

- 2) If a challenge is received, the SPO shall consider the information and shall commence a competitive procurement if the SPO is convinced the sole source designation is not appropriate, unless an emergency situation now exists.

f) Negotiation in Sole Source Procurement.

The SPO shall conduct negotiations, as appropriate, to reach contract terms including price and shall maintain a record of each sole source procurement showing:

- 1) the vendor's name;
- 2) the amount and type of the contract;
- 3) a listing of the supplies, services, or construction procured under each contract; and
- 4) the identification number of the contract file.

Section 1120.2030 Emergency Procurements
EMERGENCY

- a) Applications.

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

The provisions of this Section apply to every procurement over the small purchase limit set in Section 1120.2020 (Small Purchases) made under emergency conditions.

b) Definition of Emergency Conditions.

- 1) A procurement may be made under this Section in situations in which:

- A) public health or safety, including the health or safety of any particular person, is threatened;
- B) repairs to IOC property are needed to protect against further loss or damage to IOC property, or to prevent loss or damage to IOC property;

- C) action is needed to prevent or minimize serious disruption in State services;

- D) action is needed to ensure the integrity of State records;

- E) a supplier of goods or services announces bankruptcy, going out of business, or loss of franchise, or gives other similar reason such that making a purchase immediately is in the State's best interest;

- F) items are available on the spot market or at discounted prices available for a limited time such that good business judgment mandates a purchase immediately to take advantage of the availability and price;

- G) legal services to assist an agency in the formulation of policy, in drafting or evaluating documents, or in determining the extent of statutory authority that are needed sooner than the competitive process would allow;

- H) immediate action is needed to protect the interests of the State; or

- I) extending a contract is needed to conduct a competitive method of source selection.

- 2) After Unsuccessful Competitive Sealed Bidding or Proposals or Request for Proposals. When bids or proposals received pursuant to a competitive sealed bid or competitive sealed proposal method are unreasonable or noncompetitive, or the price exceeds available funds, and time or other circumstances will not permit the delay required to resolicit competitive sealed bids or proposals, and if emergency conditions exist after an unsuccessful attempt to use competitive sealed bidding, an emergency procurement may be made.

c) Scope of Emergency Conditions.

Emergency procurement shall be limited to those supplies or services necessary to meet the emergency.

d) Authority to Make Emergency Procurements.

Emergency procurements may be made when an emergency condition arises and the need cannot be met through normal procurement methods, provided that, whenever practical, existing IOC contracts shall be utilized and, whenever practical, approval by the SPO shall be obtained prior to the procurement. The CPO or SPO shall be

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

responsible for making the filings required in Section 20-30 of the Code.

- e) Source Selection Methods.
Any method of source selection, whether or not identified in the Code or this Part, may be used to conduct the procurement in emergency situations. Such competition as is practicable shall be obtained.
- f) Determination and Record of Emergency Procurement.
 - 1) Determination. The CPO or SPO shall make a written determination stating the basis for an emergency procurement and for the selection of the particular contractor. Such determinations shall be kept in the contract file with a copy sent promptly to the CPO.
 - 2) Record. An affidavit of each emergency procurement shall be made as soon as practicable and shall include the following information:
 - A) the vendor's name;
 - B) the amount and type of the contract (if only an estimate of the amount is available immediately, the record shall be supplemented with the final amount once known);
 - C) a description of what the vendor will do or provide;
 - D) the reasons for using the emergency method of source selection.
 - 3) Notice of the emergency procurement shall be published in the Bulletin in accordance with Subpart D of this Part.

Section 1120.2035 Competitive Selection Procedures for Professional and Artistic Services EMERGENCY

- a) Application.
 - 1) The provisions of this Section apply to every procurement of professional and artistic services except those professional and other services necessary to prepare for anticipated litigation, enforcement actions, or investigations, which are exempt from the requirements of the Code and this Part.
 - 2) "Professional and artistic services" means those services provided under contract to a State agency by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability [30 ILCS 500/1-15.60].
- b) Professional and artistic services are further defined below:
 - 1) "Qualified by education" means the individual who would perform the services must have obtained the level of education specified in the Request for Proposals.
 - 2) "Qualified by experience" means the individual who would perform the services must have the level of general experience specified in the Request for Proposals.
 - 3) "Qualified by technical ability" means the individual who would

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

perform the services must previously have successfully performed services of similar nature to those specified in the Request for Proposals.

- 4) Essential elements distinguishing professional services from other services are confidence, trust, and belief in not only the ability, but the talent, of the individual performing the service.
- 5) Professional and artistic services are primarily for intellectual or creative skills. Contracts for services primarily involving manual skills or labor are not professional services contracts.
- 6) When the IOC requires services that meet the above requirements, then the services are professional and these competitive selection procedures must be followed. Otherwise the services must be procured in accordance with the other methods of source selection authorized by the Code and this Part.
- c) Conditions for Use of Competitive Selection Procedures.
Except as authorized under Section 20-25 (Sole Source Procurement) or Section 20-30 (Emergency Procurements) of the Code, these competitive selection procedures shall be used for all procurements of professional and artistic services of \$20,000 or more. Any procurement of such services less than \$20,000 and for a nonrenewable term of one year or less may be procured in accordance with Section 1120.2020 (Small Purchases).
- d) Prequalification.
The Comptroller's Director of Administrative Services may maintain a list of prequalified professional and artistic vendors in accordance with Sections 1120.2044 and 1120.2045 of this Part. Persons may amend statements of qualification at any time by filing a new statement.
 - 1) Notice of the need for professional and artistic services shall be made by the CPO or SPO in the form of a Request for Proposals.
 - 2) Notice shall be given as provided in Section 1120.2010(e) (Public Notice) of this Part.
 - 3) Notice shall also be distributed to prequalified persons interested in performing the services required by the proposed contract.
- e) Request for Proposals.
 - 1) Contents. The Request for Proposals shall be in the form specified by the SPO and shall contain at least the following information:
 - A) the type of services required;
 - B) a description of the work involved;
 - C) an estimate of when and for how long the services will be required;
 - D) the type of contract to be used;
 - E) a date by which proposals for the performance of the services shall be submitted;
 - F) a statement of the minimum information that the proposal

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

shall contain, which may include:

- i) the name of the offeror, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract;
 - ii) if deemed relevant by the SPO, the age of the offeror's business and average number of employees over a previous period of time, as specified in the Request for Proposals;
 - iii) the abilities, qualifications, and experience of all persons who would be assigned to provide the required services;
 - iv) a listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of time, as specified in the Request for Proposals;
 - v) a plan giving as much detail as is practical explaining how the services will be performed;
 - G) price (to be submitted in a separate envelope in the proposal package and not mentioned elsewhere in the proposal package); and
 - H) the factors to be used in the evaluation and selection process and their relative importance.
- 2) Evaluation. Proposals shall be evaluated only on the basis of evaluation factors stated in the Request for Proposals. Price will not be evaluated until ranking of all proposals and identification of the most qualified vendor. The relative importance of the evaluation factors will vary according to the type of services being procured. The minimum factors are:
- A) the plan for performing the required services;
 - B) ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;
 - C) the personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting; and
 - D) a record of past performance of similar work.

g) Pre-Proposal Conference.

A pre-proposal conference may be conducted in accordance with Section 1120.2010(f) (Pre-Bid Conference). Such a conference may be held anytime prior to the date established for submission of proposals.

h) Receipt and Handling of Proposals.

Proposals and modifications shall be sent to the SPO as directed in the solicitation and shall be time-stamped upon receipt and held in a secure place until the due date and time, at which they will be opened by the SPO. Proposals shall not be opened publicly nor disclosed to

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

unauthorized persons, but shall be opened in the presence of at least one witness. A register of proposals shall be established that shall include, for all proposals, the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the services offered. The register of proposals shall be open to the public only after award of the contract.

- i) Discussions.
 - 1) Discussions Permissible. The SPO may conduct discussions with any offeror to:
 - A) determine in greater detail such offeror's qualifications; and
 - B) explore with the offeror the scope and nature of the required services, the offeror's proposed method of performance, and the relative utility of alternative methods of approach.

The SPO may allow changes to the proposal based on those discussions.

- 2) No Disclosure of Information. Discussions shall not disclose any information derived from proposals submitted by other offerors, and the agency conducting the procurement shall not disclose any information contained in any proposals until after award of the proposed contract has been made. The proposal of the offeror awarded the contract shall be open to public inspection except as otherwise provided in the contract.

- j) Selection of the Best Qualified Offerors.
 - 1) After conclusion of validation of qualifications, evaluation, and discussion, the SPO shall rank the acceptable offerors in the order of their respective qualifications.

- k) Evaluation of Pricing Data.

Pricing submitted for all acceptable proposals shall be opened and ranked.

- 1) If the low price is submitted by the most qualified vendor, negotiation of price shall commence.
- 2) If the price of the most qualified vendor is not low and if it is under \$25,000, the CPO or the SPO may award to that vendor.
- 3) If the price is over \$25,000, the CPO or SPO must state why the qualifications were deemed more important than price and such determination shall be published in the Bulletin.

- l) Negotiation and Award of Contract.

- 1) General. The CPO or SPO shall negotiate a contract with the best qualified offeror for the required services at compensation determined in writing to be fair and reasonable.
- 2) Elements of Negotiation. Contract negotiations shall be directed toward:
 - A) making certain that the offeror has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services;
 - B) determining that the offeror will make available the

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

necessary personnel and facilities to perform the services within the required time; and

- C) agreeing upon compensation that is fair and reasonable, taking into account the estimated value of the required services, and the scope, complexity, and nature of such services.

- 3) Request for Nondisclosure of Data. If the offeror selected for award has requested in writing the nondisclosure of trade secrets and other proprietary data so identified, the head of the agency conducting the procurement or a designee of such officer shall examine the request in the proposal to determine its validity prior to entering negotiations. If the parties do not agree as to the disclosure of data in the contract, the SPO shall reject the proposal.

- 4) Successful Negotiation of Contract with Best Qualified Offeror. If compensation, contract requirements, and contract documents can be agreed upon with the best qualified offeror, the contract shall be awarded to that offeror, unless the procurement is canceled. Compensation must be determined in writing to be fair and reasonable.

- 5) Failure to Negotiate Contract with Best Qualified Offeror.

- A) If compensation, contract requirements, and contract documents cannot be agreed upon with the best qualified offeror, a written record stating the reasons therefore shall be placed in the file. The SPO shall advise such offeror of the termination of negotiations.

- B) Upon failure to negotiate a contract with the best qualified offeror, the SPO may enter into negotiations with the next most qualified offeror, and so on in that manner until an award is made or the procurement canceled.

- m) Notice of Award. Written notice of award shall be public information and made a part of the contract file. The SPO shall publish the names of the responsible decision makers of the IOC, the successful vendor, a contract reference number or other identifier, and the value of the contract. Publication shall be in the next available issue of the Bulletin.

Section 1120.2036 Other Methods of Source Selection EMERGENCY

- a) Split Award.

- 1) An award of a definite quantity requirement may be split between bidders or offerors. Each portion shall be for a definite quantity and the sum of the portions shall be the total definite quantity required. A split award may be used only when award to more than one bidder or offeror for different amounts of the same item are necessary to obtain the total quantity or the required delivery.

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

- 2) The SPO shall make a written determination setting forth the reasons for the split award, which determination shall be made a part of the procurement file.

- b) Multiple Award.

- 1) A multiple award is an award of an indefinite quantity contract to more than one bidder or offeror when the IOC is obligated to order all of its actual requirements from those vendors.
- 2) A multiple award may be made when award to two or more bidders or offerors for similar products is necessary for adequate delivery, service, or product compatibility. Any multiple award shall be made in accordance with the provisions of Section 1120.2010 (Competitive Sealed Bidding), Section 1120.2015 (Competitive Sealed Proposals), Section 1120.2020 (Small Purchases), and Section 1120.2030 (Emergency Procurements), as applicable. Awards shall not be made for the purpose of simply dividing the business or making available product or supplier selection to allow for user preference unrelated to utility or economy. Any such awards shall be limited to the least number of suppliers necessary to meet the valid requirements of State agencies.
- 3) The IOC shall reserve the right to take bids separately if a particular quantity requirement arises that exceeds its normal requirement or an amount specified in the contract.
- 4) If a multiple award is anticipated, the solicitation shall state this fact as well as the criteria for award.
- 5) In a multiple award situation, one vendor may be designated as the primary recipient of orders. The other awardees may receive orders in the event the primary vendor is unable to deliver or for other reasons as determined by the SPO.

- c) Auction.

Purchases may be made at auction in accordance with the procedural requirements applicable to the particular auction. Notice and competition is not required and the amount payable shall be the amount bid and accepted plus any required buyer's premium.

- d) Non-governmental Joint Purchase.

The SPO may enter into an agreement with a person not eligible for the Governmental Joint Purchasing Act for the joint procurement of anything covered by this Code. Any method of source selection may be used and may be modified or adopted to meet the needs of the non-State entity.

- e) Federal Requirements.

Requirements of this Code and this Part may be modified or adapted to meet federal requirements.

- f) Donations.

With approval of the SPO, when the IOC receives a donation that provides the majority of the funding, IOC may follow any procurement or contracting requirements established as a condition of the donation, but shall follow the Code and this Part whenever practicable.

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

Section 1120.2037 Tie Bids and Proposals

EMERGENCY

a) Tie bids or proposals are those from responsive and responsible vendors that are identical in price or evaluation.

b) Tie bids or proposals will be treated as follows:

- 1) If the tied vendors include an Illinois resident vendor, the Illinois resident vendor shall be given the award. In all other situations, including if two or more Illinois resident bidders are tied, the decision shall be made in accordance with subsections (b)(2) through (5) of this Section. "Illinois resident vendor" has the meaning given in Section 1120.4510 (Resident Bidder Preference) of this Part.
 - 2) If there is a significant difference in responsibility (including ability to provide the service or deliver in the quantity and at the time required), the award will be made to the vendor who is deemed to be the most responsible. A vendor who has had experience in contracting with the State or IOC shall be given additional consideration in determining responsibility if the SPO determines that dealing with a vendor that has knowledge of State requirements, contracts, job sites, payment practices and such other factors and with which there has been favorable past experience increases the likelihood of successful performance.
 - 3) If there is no significant difference in responsibility, but there is a difference in the quality of the goods or services offered, the vendor offering the best quality will be accepted.
 - 4) If there is no significant difference in responsibility and no difference in quality of the goods or services offered, the vendor offering the earliest delivery time will be accepted in any case in which the solicitation specified that the needs of the IOC require as early delivery as possible.
 - 5) If the bids or proposals are equal in every respect, the award shall be made by lot unless the SPO determines that splitting the award among two or more of the tied bidders is in the best interest of the State. Awards may be split if all affected bidders agree, if splitting is feasible given the type of good or service requested, if overall pricing would not increase, if delivery would be better ensured, or if necessary or desirable to promote future competition.
- c) Record. Records shall be made of all procurements on which tie bids or proposals are received, showing at least the following information:
- 1) the identification number of the solicitation;
 - 2) the supply, service, or construction item; and
 - 3) a listing of all the bidders and the prices submitted.

Section 1120.2038 Mistakes

EMERGENCY

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

a) General. Corrections to bids, proposals or other procurement processes are allowed, but only to the extent not contrary to the best interest of the State or the fair treatment of other bidders.

b) Mistakes Discovered Before Opening. A vendor may correct mistakes discovered before the time and date set for opening by withdrawing or correcting as provided in this Section.

c) Confirmation of Mistake. When the SPO knows or has reason to conclude that a mistake has been made, such officer should request the vendor to confirm the information. Situations in which confirmation should be requested include obvious or apparent errors on the face of the document or a price unreasonably lower than the others submitted. If the vendor alleges a mistake, the bid or proposal may be corrected or withdrawn if the conditions set forth in this Section, as applicable, are met.

d) Mistakes in Bids Discovered After Opening but Before Award. This subsection (d) sets forth procedures to be applied in situations in which mistakes in bids are discovered after the time and date set for bid opening but before award.

1) Minor Informalities. A minor informality or irregularity is one that is a matter of form or pertains to some immaterial or inconsequential defect or variation of a bid from the exact requirement of the Invitation for Bids, the correction or waiver of which would not be prejudicial to the State (i.e., the effect on price, quality, quantity, delivery, or contractual conditions is negligible). The Procurement Officer shall waive such informalities or allow the bidder to correct them, depending on which is in the best interest of the State. Minor informalities include insignificant mistakes when the effect on price, quantity, quality, delivery, or contractual conditions is negligible. Examples of minor informalities as to form include the failure of a bidder to:

- A) return the number of signed bids required by the Invitation for Bids;
 - B) sign the bid, but only if the unsigned bid is accompanied by other material indicating the bidder's intent to be bound, including but not limited to signature on an auxiliary form, submission of a bid guarantee or submission of a signed transmittal letter; or
 - C) acknowledge receipt of an amendment to the Invitation for Bids, but only if:
 - i) it is clear from the bid that the bidder received the amendment and intended to be bound by its terms; or
 - ii) the amendment involved had a negligible effect on price, quantity, quality, or delivery.
- 2) Mistakes Where Intended Correct Bid Is Evident. If the mistake and the intended correct bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn. Examples of mistakes that

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.

- 3) Mistakes Where Intended Correct Bid Is Not Evident. A bidder may be permitted to withdraw a low bid if:

A) a mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or

B) the bidder submits proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made.

- e) Mistakes in Proposals Discovered After Receipt, but Before Award. This subsection (e) sets forth procedures to be applied in four situations in which mistakes in proposals are discovered after receipt of proposals but before award.

- 1) During Discussions: Prior to Best and Final Offers. Once discussions are commenced with any offeror or after best and final offers are requested, any offeror may freely correct any mistake prior to the date set for conclusion of discussions or for receipt of best and final offers.

- 2) Minor Informalities. Minor informalities, unless otherwise corrected by an offeror as provided in this Section, shall be treated as they are under competitive sealed bidding. (See subsection (d) above.)

- 3) Correction of Mistakes. If discussions are not held or if the best and final offers upon which award will be made have been received, mistakes may be corrected and the intended correct offer considered only if:

A) the mistake and the intended correct offer are clearly evident on the face of the proposal, in which event the proposal may not be withdrawn; or

B) the mistake is not clearly evident on the face of the proposal, but the offeror submits adequate proof that clearly and convincingly demonstrates both the existence of a mistake and the intended correct offer, and such correction would not be contrary to the fair and equal treatment of other offerors.

- 4) Withdrawal of Proposals. If discussions are not held, or if the best and final offers upon which award will be made have been received, the offeror may be permitted to withdraw the proposal if:

A) the mistake is clearly evident on the face of the proposal and the intended correct offer is not;

B) the offeror submits proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made but does not demonstrate the intended correct offer; or

C) the offeror submits adequate proof that clearly and convincingly demonstrates the intended correct offer, but to allow corrections would be contrary to the fair and equal treatment of other offerors.

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

- f) Mistakes Discovered After Award. Mistakes shall not be corrected after award of the contract except when the CPO or the SPO finds it would be unconscionable not to allow the mistake to be corrected.

- g) Determinations Required. When a proposal is corrected or withdrawn, or correction or withdrawal is denied, a written determination shall be prepared showing that relief was granted or denied in accordance with this Part. The SPO shall prepare the determination.

Section 1120.2040 Cancellation of Solicitations; Rejection of Bids or Proposals EMERGENCY

- a) Scope of this Section.

The provisions of this Section shall govern the cancellation of any solicitations whether issued by the IOC under competitive sealed bidding, competitive sealed proposals, small purchases, or any other source selection method, and rejection of bids or proposals in whole or in part.

- b) Policy.

Any solicitation may be canceled when the SPO believes cancellation to be in the State's best interest. Nothing shall compel the award of a contract.

- c) Cancellation of Solicitation; Rejection of All Bids or Proposals Prior to Opening.

1) As used in this Section, "opening" means the date set for opening of bids, receipt of unpriced technical offers in multi-step sealed bidding, or receipt of proposals in competitive sealed proposals.

2) Prior to opening, a solicitation may be canceled in whole or in part when the SPO determines in writing that such action is in the State's best interest for reasons including, but not limited to:

- A) the IOC no longer requires the supplies, services, or construction;
- B) the IOC no longer can reasonably expect to fund the procurement; or
- C) proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable.

3) When a solicitation is canceled prior to opening, notice of cancellation shall be sent to all businesses who responded to the solicitation.

- 4) The notice of cancellation shall:

- A) identify the solicitation;
- B) briefly explain the reason for cancellation; and
- C) where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurements of similar supplies, services, or construction.

- d) Cancellation of Solicitation; Rejection of All Bids or Proposals After

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

Opening.

1) After opening but prior to award, all bids or proposals may be rejected in whole or in part when the SPO determines in writing that such action is in the State's best interest. Such reasons may include, but are not limited to:

- A) the supplies, services, or construction being procured are no longer required;
- B) ambiguous or otherwise inadequate specifications were part of the solicitation;
- C) the solicitation did not provide for consideration of all factors of significance to the IOC;
- D) prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
- E) all otherwise acceptable bids or proposals received are at clearly unreasonable prices; or
- F) there is reason to believe that the bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.

2) When the solicitation is canceled or when all bids or proposals are rejected, all vendors who submitted bids or proposals shall be sent a notice informing them of the cancellation or rejection.

e) Documentation. The reasons for cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.

f) Rejection of Individual Bids or Proposals.

1) General. This subsection (f) applies to rejections of individual bids or proposals in whole or in part.

2) Notice in Solicitation. Each solicitation issued by the IOC shall provide that any bid or proposal may be rejected in whole or in part when in the best interest of the State as provided in this Section.

3) Reasons for Rejection.

Reasons for rejecting a bid or proposal may include, but are not limited to:

- A) the business that submitted the bid or proposal is nonresponsible as determined under Section 1120.2046 (Responsibility);
- B) the bid or proposal is not responsive, that is, it does not conform in all material respects to the solicitation;
- C) the proposal ultimately (that is, after any opportunity has passed for altering or clarifying the proposal) fails to meet the announced requirements of the IOC in some material respect;
- D) the supply or service item offered in the bid is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternates

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

or other acceptability criteria set forth in the Invitation for Bids; or

E) the proposed price is clearly unreasonable.

4) Notice of Rejection. Upon request, unsuccessful bidders or offerors shall be advised of the reasons for rejection.

g) Disposition of Bids or Proposals.

When bids or proposals are rejected, they shall be retained until after award. When a solicitation is canceled, the bids or proposals will be discarded or returned to the vendor at the discretion of the SPO.

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section 1120.2043 Suppliers
EMERGENCY

a) An agency with procurement authority may contract with any qualified source of supply, but must give preference to directed sources and should consider the special sources outlined in this Section.

b) Directed Sources--State-Produced Supplies or Services.

1) Correctional Industries. The SPO, after consulting with the Department of Corrections, shall determine the type and extent of the preference given to supplies produced or services performed by Correctional Industries.

2) Central Services. Supplies and services available from the program operations of the Department of Central Management Services shall be utilized unless the SPO authorizes procurement from other sources.

c) Special Sources.

1) Prior to any equipment procurement, the IOC will consider property available from the State and Federal Surplus Warehouses under the jurisdiction of the Department of Central Management Services.

2) Various goods and services are available from qualified workshops for the disabled and procurement from these workshops is encouraged. Notice and competition is not required pursuant to Section 45-35 of the Code. Information regarding the workshops will be obtained from DCMS.

3) Various goods and services are available from State agencies and other governmental units. These may be procured without notice and competition.

Section 1120.2044 Vendor Lists
EMERGENCY

a) The Comptroller's Director of Administrative Services may maintain a list of vendors interested in doing business with the IOC. Lists of names and addresses of bidders shall be available for public

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

inspection.

- b) Inclusion or exclusion from the vendor list of the name of a business does not indicate whether the business is responsible in respect to a particular procurement or otherwise capable of successfully performing a State contract.
- c) Invitations for Bids and other solicitations will be sent to vendors on the vendor list for goods or services in question, except in the following cases:
 - 1) The vendor does not sell the particular commodity or equipment.
 - 2) The number of vendors for a procurement classification is of such magnitude that optimum prices may reasonably be expected without soliciting the entire vendor list. The IOC may, if it determines that the best interest of the State would be served, rotate the selection from the list on any equitable basis.
 - 3) The IOC determines that the best interests of the State will be served by limiting vendors to those in defined geographic areas (example: purchases of ready-mix concrete, perishables, and equipment requiring immediate service).
- d) The SPO may alternatively refer to vendor lists maintained by DCMS.

Section 1120.2045 Prequalification

EMERGENCY

- a) General.
 - 1) The SPO may require that vendors be prequalified as a condition of being placed on the bid list. An opportunity to prequalify shall be allowed at least one time each fiscal year. The opportunity to prequalify and whether prequalification will be a condition of bidding or being awarded a contract shall be announced in the Bulletin.
 - 2) The fact that a prospective vendor has been prequalified does not necessarily represent a finding of responsibility for a particular procurement.
 - 3) Except in the case of professional and artistic services, distribution of and responses to the solicitation may be limited to prequalified vendors and award of a contract may be denied because a vendor was not prequalified.
- b) Professional and Artistic Services.
 - 1) When the services are needed on a recurring basis, the Comptroller's Director of Administrative Services shall actively solicit persons engaged in providing such services to submit annual statements of qualifications in a prescribed format that shall include the following information:
 - A) technical education and training;
 - B) general or special experience, certifications, licenses, and memberships in professional associations, societies, or boards;
 - C) an expression of interest in providing a particular

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

- professional or artistic service; and
- D) any other pertinent information.
- 2) Categories of services that may be professional, depending on the requirements for education, experience and technical ability, include, but are not limited to:
 - A) medical;
 - B) legal;
 - C) accounting;
 - D) general consulting.
- c) Qualified Products Lists. Qualified products lists are treated in Section 1120.2050 (Specifications) of this Part.

Section 1120.2046 Responsibility

EMERGENCY

a) Application.

Contracts are to be made only with responsible vendors unless no responsible vendor is available to meet the IOC's needs. If there is doubt about responsibility, and if a bond or other security would adequately protect the State's interests, then that vendor may be awarded a contract upon receipt of the bond or other security.

- b) Standards of Responsibility.
 - 1) Standards. Factors to be considered in determining whether the standard of responsibility has been met include whether a prospective vendor:
 - A) has available the appropriate financial, material, equipment, facility, and personnel resources and expertise (or the ability to obtain same) necessary to indicate its capability to meet all contractual requirements;
 - B) is able to comply with required or proposed delivery or performance schedules, taking into consideration all existing commercial and governmental commitments;
 - C) has a satisfactory record of performance. Vendors who are or have been deficient in current or recent contract performance in dealing with the State or other customers may be deemed "not responsible" unless the deficiency is shown to have been beyond the reasonable control of the vendor;
 - D) has a satisfactory record of integrity and business ethics. Vendors who are under investigation or indictment for criminal or civil actions that bear on the particular procurement or which would make contracting with that vendor undesirable may be declared not responsible for the particular procurement;
 - E) is qualified legally to contract with the State;
 - F) has supplied all necessary information in connection with the inquiry concerning responsibility;
 - G) has a current Public Contracts number from the Illinois Department of Human Rights, if required. Proof of

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

application prior to opening of bids or proposals will be sufficient for an initial determination; and

H) pays prevailing wages, if required by law.

- 2) Information Pertaining to Responsibility. The prospective vendor shall supply information requested by the Procurement Officer concerning the responsibility of such vendor. The State may supplement this information from other sources and may require additional documentation at any time. If such vendor fails to supply the requested information, the Comptroller's Director of Administrative Services shall base the determination of responsibility upon any available information, or may find the prospective vendor nonresponsible.
- c) Ability to Meet Standards.

The prospective vendor may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request:

- 1) evidence that such vendor possesses such necessary items;
- 2) acceptable plans to subcontract for such necessary items; or
- 3) a documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items.

- d) Duty Concerning Responsibility.

Before awarding a contract, the Comptroller's Director of Administrative Services must be satisfied that the prospective vendor is responsible. Responsibility can be proven until time of contract execution unless the solicitation or other law requires earlier proof.

- e) Written Determination of Nonresponsibility Required.

If a vendor who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the Comptroller's Director of Administrative Services. The final determination shall be made part of the procurement file.

- f) Bond for Responsibility.

Vendors not having a history of performance may be considered responsible if no other disqualifying factors exist. A bond or other security may be required of such vendors.

- g) Affiliated Companies.

Vendors who are newly formed business concerns having substantially the same owners, officers, directors, or beneficiaries as a previously existing nonresponsible vendor will be declared nonresponsible unless the new organization can prove it was not set up for the purpose of avoiding an earlier declaration of nonresponsibility.

- h) Vendor Under Investigation.

A vendor under investigation by a governmental agency may be determined nonresponsible by the Comptroller's Director of Administrative Services.

SUBPART G: BID, PROPOSAL, AND PERFORMANCE SECURITY

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

Section 1120.2047 Security Requirements
EMERGENCY

- a) The Comptroller's Director of Administrative Services may require that a vendor furnish bid, proposal, or performance security on IOC contracts. Whenever security is required, except as provided herein, the procurement document will clearly indicate the type and amount of security.
- b) Security, unless otherwise specified, may be in the form of cashier's check, certified check, money order, irrevocable letter of credit or bond. Any bond must be issued by a surety company authorized to do business in the State of Illinois.
- c) Unless the amount is set by law, the Comptroller's Director of Administrative Services will determine the amount, in dollars or percentage of contract price, that will adequately protect the State's interests.
- d) A vendor may be required to furnish up to 100% performance security at any time during contract performance and at its cost, if it appears that delivery or production schedules cannot be met, quality is poor, or responsibility is questioned, and for similar reasons.
- e) Permissive/Mandatory Security.

- 1) Bid or proposal security is permissive on any contract but is not appropriate on emergency or sole source procurements.
- 2) Performance security is permissive on any contract and is recommended on contracts calling for advance payment.
- 3) Performance security is required on all public works contracts.

- f) A vendor may submit a single or continuous security each year that will be applicable on all IOC contracts. When such security has been obligated in an amount equal to the sum of accumulated security requirements, additional security must be submitted.

- g) Bid or proposal security will be returned to unsuccessful vendors as soon after award as possible. The bid or proposal security of the successful vendor will be returned after contracts have been signed and performance security, if any, submitted. Performance security will be returned upon full performance.

SUBPART H: SPECIFICATIONS AND SAMPLES

Section 1120.2050 Specifications
EMERGENCY

- a) SPO's Responsibilities Regarding Specifications.
- 1) The SPO is authorized to write IOC procurement specifications.
 - 2) When a written determination is made by the SPO authorized to prepare such specifications that there will be no substantial conflict of interest involved and it is otherwise in the best interest of the State, a contract to prepare specifications for IOC use in procurement of supplies or services may be entered

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

into provided the SPO retains the authority to finally approve the specifications.

- 3) If a specification for general or common use or a qualified products list exists for an item to be procured under Section 20-20 of the Code (Small Purchases), it shall be used except as otherwise authorized by the SPO. If no such specification exists, the SPO is hereby granted the authority to prepare specifications for use in such purchases. In an emergency under Section 20-30 of the Code, any necessary specification may be utilized without regard to the provisions of this Subpart.

b) Procedures for the Development of Specifications.

- 1) If a specification for a common or general use item has been developed or a qualified products list has been developed in accordance with this Section for a particular supply or service, it shall be used unless the SPO authorizes use of another specification.
 - 2) All procurements shall be based on specifications that accurately reflect the IOC's needs. Specifications shall clearly and precisely describe the salient technical or performance requirements.
 - 3) Specifications shall not include restrictions that do not significantly affect the technical requirements or performance requirements, or other legitimate IOC needs. All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply or service, or procurement from a sole source, unless no other manner of description will suffice.
 - 4) Any specifications or standards adopted by business, industry, not-for-profit organization or governmental unit may be adopted by reference.
 - 5) A specification may provide alternate descriptions when two or more design, functional, or performance criteria will satisfactorily meet the IOC's requirements.
- c) Brand Name or Equal Specification.
- 1) Brand name or equal specifications may be used when the SPO determines in writing that:
 - A) no specification for a common or general use specification or qualified products list is available;
 - B) time does not permit the preparation of another form of specification, not including a brand name specification;
 - C) the nature of the product or the nature of the IOC's requirement makes use of a brand name or equal specification suitable for the procurement; or
 - D) use of a brand name or equal specification is in the State's best interest.
 - 2) Brand name or equal specifications shall seek to designate more than one brand as "or equal", and shall further state that substantially equivalent products to those designated will be

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

- 3) Required Characteristics. Unless the SPO authorized to finally approve specifications determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics that are required.

- 4) Nonrestrictive Use of Brand Name or Equal Specifications. Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. "Or equal" submissions will not be rejected because of minor differences in design, construction or features that do not affect the suitability of the product for its intended use. Burden of proof that a product is equal is on the bidder.

d) Brand Name Only Specification.

- 1) Determination. A brand name only specification may be used only when the SPO makes a written determination that only the identified brand name item or items will satisfy the IOC's needs.
 - 2) Use. Brand name alone may be specified in order to ensure compatibility in existing systems, to preserve warranty, to ensure maintenance, or as authorized in writing by the SPO.
 - 3) Competition. The SPO shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 1120.2025 (Sole Economically Feasible Source Procurement) of this Part.
- e) Qualified Products List.
- 1) Use. A qualified products list may be developed when testing or examining supplies prior to issuance of the solicitation is desirable or necessary in order to best satisfy IOC requirements.
 - 2) Solicitation. When developing a qualified products list, a representative group of potential suppliers shall be solicited in writing to submit products for testing and examination to determine acceptability for inclusion in a qualified products list. Any potential supplier, even though not solicited, may offer its products for consideration during the time allowed for testing and examination.
 - 3) Testing and Confidential Data. Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with established requirements. Except as otherwise provided by law, trade secrets, test data, and similar information provided by the supplier will be kept confidential when requested in writing by the supplier.

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

- f) Proven Products.
The supply or service may be rejected if it has not been offered to other governmental or commercial accounts for at least one year. Specifications may require that the supply or services must have been used in business or industry for a specified period of time to be considered.
- g) State Required Samples.
1) Any required samples must be submitted as instructed in the solicitation with transportation prepaid by the vendor. Each sample must be labeled with the vendor's name, address and a means of matching the sample with the applicable bid or proposal.
2) Any sample submitted must be representative of the item that would be delivered if a contract were awarded for that item. Samples submitted by a successful vendor will be retained to check continuing quality. Submission of samples will not limit the IOC's right to require adherence to specifications.
3) No payment will be made for IOC required samples. Samples not destroyed or consumed by examination or testing will be returned upon request and at vendor's expense. Such request must be made at time of submission with return collect or prepayment provisions and instructions for return accompanying the samples.
- h) Product Demonstration.
Any vendor may request time and space to demonstrate a product or service. Agreement to allow such demonstration will be solely at the IOC's discretion and will not entitle the bidder to a contract nor shall payment for the demonstration be allowed unless a written contract had been executed prior to the demonstration.
- i) Specifications Prepared by Other Than IOC Personnel.
1) Specifications may be prepared by other than IOC personnel, including, but not limited to, consultants, architects, engineers, designers, and other drafters of specifications for public contracts. Contracts for the preparation of specifications by other than IOC personnel shall require the specification writer to adhere to the Code and the IOC requirements.
2) The person who prepared the specifications shall not submit a bid or proposal to meet the procurement need unless the Comptroller determines in writing that it would be in the best interest to accept such a bid or proposal from that person. A notice to that effect shall be published in the Bulletin.

SUBPART I: CONTRACT TYPE

Section 1120.2055 Types of Contracts
EMERGENCY

- a) Scope of Rule.
This Subpart contains descriptions of types of contracts and

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

limitations as to when they should be utilized by the IOC in its procurements. Types of contracts not mentioned in this Section may also be utilized.

- b) Prohibition of Cost-Plus-a-Percentage-of-Cost Contracting.
The cost-plus-a-percentage-of-cost contract is prohibited by Section 20-55 of the Illinois Procurement Code. This type of contracting may not be used alone or in conjunction with an authorized type of contract.

c) Types of Fixed-Price Contracts.

- 1) Firm Fixed-Price Contract. A firm fixed-priced contract provides a price that is not subject to adjustment because of variations in the contractor's cost of performing the work specified in the contract.

2) Fixed-Price Contract with Price Adjustment.

- A) A fixed-price contract with price adjustment provides for variation in the contract price under special conditions defined in the contract, other than customary provisions authorizing price adjustments due to modifications to the work. The formula or other basis by which the adjustment in contractor price can be made shall be specified in the solicitation and the resulting contract. Adjustment allowed may be upward or downward only, or both upward and downward. Examples of conditions under which adjustments may be provided in fixed-price contracts are:

- i) changes in the contractor's labor agreement rates as applied to an industry or areawide (such as are frequently found in contracts for the purchase of coal);
ii) changes due to rapid and substantial price fluctuations, which can be related to an accepted index (such as contracts for gasoline, heating oils, and dental gold alloy); and
iii) in requirement contracts when a general price change applicable to all customers occurs, or when a general price change alters the base price (such as a change in a manufacturer's published price list or posted price to which a fixed discount is applied pursuant to the contract to determine the contract price).
- B) If the contract permits unilateral action by the contractor to bring about the condition under which a price increase may occur, the IOC shall retain the right to reject the price increase and terminate without cost the future performance of the contract.
- d) Cost-Reimbursement Contracts.
1) Determination Prior to Use.
A) A cost-reimbursement type contract may be used only when the CPO or SPO determines in writing that such a contract is likely to be less costly to the IOC than any other type or

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

that it is impracticable to obtain otherwise the supplies or services.

B) Reimbursement of travel expenses in accordance with applicable travel control board regulations is authorized without further determinations.

2) Cost Contract. A cost contract provides that the contractor will be reimbursed for allowable costs incurred in performing the contract, but will not receive a fee.

3) Cost-Plus-Fixed-Fee Contract. This is a cost-reimbursement type contract that provides for payment to the contractor of an agreed fixed fee in addition to reimbursement of allowable incurred costs. The fee is established at the time of contract award and does not vary if the actual cost of contract performance is greater or less than the initial estimated cost established for such work. Thus, the fee is fixed but not the contract amount because the final contract amount will depend on the allowable costs reimbursed. The fee is subject to adjustment only if the contract is modified to provide for an increase or decrease in the scope of work specified in the contract. The cost-plus-fixed-fee contract can be either a completion form or term form.

4) Cost Incentive Contracts.

A) General. A cost-incentive type of contract provides for the reimbursement to the contractor of allowable costs incurred up to the ceiling amount and establishes a formula whereby the contractor is rewarded for performing at less than target cost (that is, the parties' agreed best estimate of the cost of performing the contract will vary inversely with the actual, allowable costs of performance and consequently is dependent on how effectively the contractor controls cost in the performance of the contract).

B) Fixed-Price Cost-Incentive Contract. In a fixed-price cost-incentive contract, the parties establish at the outset a target cost, a target profit (that is, the profit that will be paid if the actual cost of performance equals the target cost), a formula that provides a percentage increase or decrease of the target profit depending on whether the actual cost of performance is less than or exceeds the target cost, and a ceiling price. After performance of the contract, the actual cost of performance is arrived at based on the total incurred allowable costs as provided in the contract. The final contract price is then established in accordance with the formula using the actual cost of performance. The final contract price may not exceed the ceiling price. The contractor is obligated to complete performance of the contract, and, if actual costs exceed the ceiling price, the contractor suffers a loss.

C) Cost-Reimbursement Contract with Cost-Incentive Fee. In a

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

cost-reimbursement contract with cost-incentive fee, the parties establish at the outset a target cost; a target fee; a formula for increase or decrease of fee depending on whether actual cost of performance is less than or exceeds the target cost, with maximum and minimum fee limitations; and a cost ceiling that represents the maximum amount that the IOC is obligated to reimburse the contractor. The contractor continues performance until the work is complete or costs reach the ceiling specified in the contract, including any modification thereof, whichever first occurs. After performance is complete or costs reach the ceiling, the total incurred, allowable costs reimbursed as provided in the contract are applied to the formula to establish the incentive fee payable to the contractor.

e) Performance Incentive Contracts.

In a performance incentive contract, the parties establish at the outset a pricing basis for the contract, performance goals, and a formula that varies the profit or the fee if the specified performance goals are exceeded or not met. For example, early completion may entitle the contractor to a bonus, while late completion may entitle the IOC to a price decrease.

f) Time and Materials Contracts; Labor Hour Contracts.

Time and materials contracts provide an agreed basis for payment for materials supplied and labor performed. Labor hour contracts provide only for the payment of labor performed. Such contracts shall, to the extent possible, contain a stated ceiling or an estimate that shall not be exceeded without prior IOC approval.

g) Definite Quantity and Indefinite Quantity Contracts.

1) Definite Quantity. A definite quantity contract is a fixed-price contract that provides for delivery of a specified quantity of supplies or services either at specified times or when ordered.

2) Indefinite Quantity. An indefinite quantity contract is a contract for an indefinite amount of supplies or services to be furnished at specified times, or as ordered, that establishes unit prices of a fixed-price type. Generally an approximate quantity or the best information available as to quantity is stated in the solicitation. The contract may provide a minimum quantity the IOC is obligated to order and may also provide for a maximum quantity provision that limits the IOC's obligation to order.

3) Requirements Contracts. A requirements contract is an indefinite quantity contract for supplies or services that specifically obligates the IOC to order all the actual IOC requirements during a specified period of time.

h) Leases.

A lease is a contract for the use of supplies or real property under which title will not pass to the IOC at any time.

i) Recovery Contracts.

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

Contracts may provide for payment to the vendor of a percentage of the amount the vendor recovers or collects on behalf of the State. The percentage may be fixed or may vary depending on amount of recovery or other factors, and the percentage may be paired with a fixed price or cost reimbursement method.

j) Option Provisions.

- 1) Contract Provision. When a contract is to contain an option for renewal, extension, or purchase, notice of such provision shall be included in the solicitation. These options may be exercised without taking other procurement action when the option is established for exercise at the IOC's option.
- 2) Lease with Purchase Option. A purchase option in a lease may be exercised only if the lease containing the purchase option was awarded under competitive sealed bidding or competitive sealed proposals.

k) State Produced Supplies and Services.

Notwithstanding any provision in any contract, supplies or services available from the State's own programs, such as Correctional Industries, may be ordered without violating any contract.

l) Extraordinary Quantities.

Notwithstanding any provision in any contract, the IOC reserves the right to take bids separately if a particular quantity requirement arises that exceeds the IOC's normal needs or ordering requirements.

m) Energy Conservation.

The CPO may authorize an IFB, RFP or sole source negotiation for energy conservation measures whereby the IOC would make payment based on utility cost savings. Such contract shall require a clearly defined baseline of energy usage and method of measuring cost savings taking into account at least differing weather conditions, changes in facility, usage and cost of energy.

SUBPART J: DURATION OF CONTRACTS

Section 1120.2060 Duration of Contracts - General
EMERGENCY

a) General.

- 1) A multi-term contract for a term up to 10 years is authorized when determined by the SPO to be in the best interest of the State.
- 2) A software license may have a term longer than 10 years, including for a perpetual term, provided the payment term is limited to no more than ten years.
- b) The contractual obligation of both parties in each fiscal period succeeding the first is subject to the appropriation and availability of funds. The contract shall provide that, in the event that funds are not available for any succeeding fiscal period, the remainder of such contract shall be canceled without penalty to, or further payment

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

being required by, the IOC. This provision applies to only those contracts that are funded in whole or in part by funds appropriated by the Illinois General Assembly or other governmental entity.

c) Conditions for Use of Multi-Term Contracts.

A multi-term contract may be used when:

- 1) special production of definite quantities or the furnishing of long-term services are required to meet IOC needs; or
- 2) a multi-term contract will serve the best interests of the State by encouraging effective competition or otherwise promoting economies in State procurement. The following factors are among those relevant to such a determination:
 - A) firms that are not willing or able to compete because of high start-up costs or capital investment in facility expansion will be encouraged to participate in the competition when they are assured of recouping such costs during the period of contract performance;
 - B) lower production costs because of larger quantity of service requirements, and substantial continuity of production or performance over a longer period of time, can be expected to result in lower unit prices;
 - C) stabilization of the contractor's work force over a longer period of time may promote economy and consistent quality; or
 - D) the cost and burden of contract solicitation, award, and administration of the procurement may be reduced.

d) Multi-Term Contract Procedure.

The solicitation shall state:

- 1) the proposed term;
- 2) the amount of supplies or services required for the proposed contract period;
- 3) whether bidders or offerors may submit prices for:
 - A) the first fiscal period only;
 - B) the entire time of performance only; or
 - C) both the first fiscal period and the entire time of performance; and
- 4) how award will be determined.
- e) Renewals.
 - 1) Where the original procurement specifically called for an initial term plus renewals, the renewals may be exercised without further procurement activity, provided the initial term and the exercised renewals may not exceed 10 years, the terms and conditions do not change except as provided in the contract (such as price escalations tied to an index) and the option is reserved solely to the IOC.
 - 2) Where the original procurement was silent as to renewals, the renewal must be procured using one of the methods of source selection authorized by the Code and this Part.

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

SUBPART K: CONTRACT MATTERS

Section 1120.2560 Prevailing Wage

EMERGENCY

- a) For the following classifications and if competition exists, no bidder will be awarded a contract unless its employees are paid wages and benefits and are working under conditions prevalent in the location where the work is to be performed.

- 1) Public works;
- 2) Printing;
- 3) Janitorial services, window washing and security guard services having a monthly contract price of \$200 or a yearly price of \$2,000.

- b) Prevailing wage and conditions prevalent means the hourly wage rate, overtime, holiday pay, pension, welfare, premium differential, vacation pay and other benefits received by employees and the environmental conditions under which they work.

- c) Wage Rates.

- 1) Prevailing wage rates, benefits and conditions will be those in effect on the first date of the contract, provided that if the rate changes during the contract term and the amount of change is known before execution of the contract, then the contract rate will vary in like amount.
- 2) If the change cannot be determined in advance, the contract will be changed by the amount of the change in wage rate and all components of price that are dependent on the usage rate, such as payroll taxes, worker's compensation insurance, vacation, sick days, and pension, provided that profit shall not increase due to prevailing wage increases. The IOC shall have the option to cancel the contract if it finds the new price unacceptable.
- 3) If the initial prevailing wage, etc., cannot be determined prior to execution, contracts may be entered into and will remain valid for the stated term.
- d) If a collective bargaining agreement is in effect governing the type of printing, janitorial, window washing or security guard service sought, that agreement will define minimum wages, benefits and conditions that must be paid in order for a bidder to be considered responsible.
- e) For public works, location means the county where the physical work upon public works is performed, except that if there is not available in the county a sufficient number of competent skilled laborers, workers and mechanics to construct the public works efficiently and properly, "location" includes any other county nearest the one in which the work or construction is to be performed and from which such persons may be obtained in sufficient numbers to perform the work.
- f) For Printing Contracts, location means one of the following areas:
 - 1) Cook County;

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

- 2) Boone, Bureau, Carroll, Champaign, Dekalb, DeWitt, DuPage, Ford, Fulton, Grundy, Hancock, Henderson, Henry, Iroquois, Jo Daviess, Kane, Kankakee, Kendall, Knox, Lake, LaSalle, Lee, Livingston, Logan, Marshall, Mason, McDonough, McHenry, McLean, Mercer, Ogle, Peoria, Piatt, Putnam, Rock Island, Schuyler, Stark, Stephenson, Tazewell, Vermilion, Warren, Whiteside, Will, Winnebago, and Woodford counties;
- 3) Adams, Alexander, Bond, Brown, Calhoun, Cass, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Gallatin, Greene, Hamilton, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Macon, Macoupin, Madison, Marion, Massac, Menard, Monroe, Montgomery, Morgan, Moultrie, Perry, Pike, Pope, Pulaski, Randolph, Richland, Saline, Sangamon, Scott, Shelby, St. Clair, Union, Wabash, Washington, Wayne, White, and Williamson counties.

Where the printing is performed in a plant outside the jurisdiction of this State, it shall be deemed produced in the Illinois locality in which delivery of the printing ordered is required to be made. Where such printing is required to be delivered to more than one Illinois locality, such printing shall be deemed produced in the Illinois locality to which the largest dollar volume of printing under the contract is to be delivered.

- g) For janitorial services, window washing and security guard services, location means the county in which the work is to be performed.
- h) Prevailing wages, benefits and conditions will be determined by the Illinois Department of Labor.

SUBPART L: CONTRACT PRICING

Section 1120.2800 All Costs Included
EMERGENCY

The IFB or RFP and any resulting contract should define whether prices cover transportation, transit insurance, delivery, installation, taxes, and any other costs.

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section 1120.4005 Real Property Leases and Capital Improvement Leases
EMERGENCY

Real property leases and capital improvement leases shall be procured in accordance with Article 40 of the Code, this Part, and 44 Ill. Adm. Code 5000. In the event of a conflict, 44 Ill. Adm. Code 5000 shall prevail.

SUBPART O: PREFERENCES

Section 1120.4505 Procurement Preferences

OFFICE OF THE COMPTROLLER
NOTICE OF EMERGENCY RULE

EMERGENCY

The procurement preferences identified in Article 45 of the Code must be considered in developing procurement documents, conducting evaluations and drafting contracts.

**Section 1120.4510 Resident Bidder Preference
EMERGENCY**

- a) "Illinois resident vendor" as used in this Section means a person authorized to transact business in this State and having a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract was first advertised or announced, including a foreign corporation duly authorized to transact business in this State that has a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract is first advertised or announced.
- b) In breaking a tie, an Illinois resident vendor shall be given the award.
- c) An Illinois resident vendor who would perform the services or provide the supplies from another state shall be considered a resident of that other state as against an Illinois resident vendor who would perform the services or provide the supplies from Illinois, if that other state has an in-state preference.
- d) If an Illinois resident vendor produces or performs at least 51% of the goods or services in another state, that Illinois resident vendor shall be considered a resident of that other state for purposes of application of this reciprocal preference when evaluating the bid of an Illinois resident contractor that produces or performs at least 51% of the goods or services in Illinois.
- e) The SPO may refer to the list of states with in-state preference maintained by DCMS, which shall be considered in all procurements involving out-of-state vendors.

**Section 1120.4530 Correctional Industries
EMERGENCY**

- a) The SPO shall refer to the listing maintained by DCMS of the goods or services available and mandatorily purchased from the Department of Corrections.
- b) Those items that must be purchased from Corrections may not be procured from any other source without the express written authorization of the SPO.
- c) The SPO may procure from Corrections without seeking competition or giving public notice.

OFFICE OF THE COMPTROLLER
NOTICE OF EMERGENCY RULE

**Section 1120.4535 Sheltered Workshops for the Disabled
EMERGENCY**

- a) Use of Sheltered Workshop.
The SPO shall refer to information prepared by DCMS concerning qualified sheltered workshops and categories of goods and services set aside to such sheltered workshops by DCMS. To the extent practicable, the IOC will observe such set asides.
- b) Pricing Approval.

While notice and competition is not required prior to contracting with a sheltered workshop, prices must be reasonable. Whether a price is reasonable will be determined based upon current market prices, historical prices, prices received by other State agencies for similar goods or services, the policy of the Code to promote procurements from sheltered workshops, and other such relevant factors.

**Section 1120.4540 Gas Mileage
EMERGENCY**

- a) Vehicle specifications shall require compliance with minimum gas mileage requirements established in Section 45-40 of the Code.
- b) Exceptions must be approved by the CFO and must fully describe the circumstances necessitating a noncompliant vehicle.
- c) No exceptions will be granted unless it is clear that a noncompliant vehicle is necessary.

**Section 1120.4545 Small Business
EMERGENCY**

- a) Set-Aside.
DCMS may determine categories of goods or services procurements that will be set aside for small business. The SPO may contact DCMS to determine whether a particular procurement has been set aside for small business, and, if so, the IOC may honor the set aside to the extent practicable.
- b) Small Business List.
The IOC may refer to the list of responsible vendors that meet the criteria of small business maintained by DCMS. A business that fits the definition of small on the day of bid or proposal opening will be considered small for the duration of the contract.
- c) Required Use.
If the SPO wishes to make a procurement covered by a set-aside designation, the solicitation must note responses are limited to those from responsible small businesses. Bids or proposals received from large businesses will be rejected as nonresponsive.
- d) Withdrawal of Set-Aside.
If the SPO determines that acceptance of the best bid or proposal will result in the payment of an unreasonable price, the SPO shall reject

OFFICE OF THE COMPTROLLER
NOTICE OF EMERGENCY RULE

all bids or proposals and withdraw the designation of small business set-aside for the procurement in question. When a small business set-aside is withdrawn, notification shall be published in the Illinois Procurement Bulletin with an explanation. After withdrawal of the small business set-aside, the procurement shall be conducted in accordance with the limitations of the Code and this Part.

e) Criteria for Small Business.

Unless the SPO provides a definition for a particular procurement that reflects industrial characteristics, a small business is one:

- 1) Independently owned and operated.
- 2) Not dominant in its field of operations. This means the business does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining dominance, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.
- 3) With annual sales for most recently ended fiscal year no greater than:

- A) \$7,500,000 for wholesale business;
- B) \$3,000,000 for construction business; or
- C) \$1,500,000 for retail business.

4) With no more than 250 employees if a manufacturing business.

A) A manufacturing business shall calculate how many people it employs by determining its average full-time equivalent employment, based on the number of persons employed on a full-time, part-time, temporary or other basis for its most recently ended fiscal year.

B) If a manufacturing business has been in existence for less than a full fiscal year, its average employment should be calculated for the period through one month prior to the bid or proposal due date.

5) If both a wholesaler and a retailer, the combined wholesale and retail annual sales for its most recently completed fiscal year may not exceed \$9,000,000. The retail component may not exceed \$1,500,000 and the wholesale component may not exceed \$7,500,000.

6) When computing the size status of a vendor, the number of employees and annual sales and receipts, as applicable, of the vendor and all affiliates shall be included. Concerns are affiliates when either one directly or indirectly controls or has the power to control the other, or when a third party or parties control or have the power to control both. In determining whether concerns are independently owned and operated and whether affiliation exists, consideration shall be given to all appropriate factors, including use of common facilities, common ownership and management and contractual arrangements. However,

OFFICE OF THE COMPTROLLER
NOTICE OF EMERGENCY RULE

a franchise relationship shall not affect small business status if the franchise has the right to profit commensurate with ownership and bears the risk of loss or failure.

SUBPART P: ETHICS

Section 1120.5013 Conflicts of Interest
EMERGENCY

- a) An individual has a direct pecuniary interest in a contract when the individual is owed a payment in conjunction with performance of a contract, including but not limited to finders fees and commission payments.
- b) Distributable income means the income of a company after payment of all expenses, including employee salary and bonus, and retained earnings, and the remaining amount is actually distributed to those entitled to receive a share of such income.
- c) This Section does not apply to contracts with licensed professionals provided such contracts are competitively bid. (For purposes of this Section, "bid" means procured pursuant to the competitive procedures identified in Subpart E of this Part.)

Section 1120.5015 Negotiations for Future Employment
EMERGENCY

- a) An individual who performs services pursuant to a contract and who meets the requirements of an "employee" as opposed to an independent contractor is in a "continued contractual relationship" for the effective date of the contract until such time as the contract is terminated.
- b) An individual who performs services pursuant to a contract and who meets the requirements of an "independent contractor" as opposed to an "employee" is in a "continued contractual relationship" if the contract term is indefinite, is automatically renewed, is renewable at the individuals option, is renewable unless the State must act to terminate, or has a definite term of at least three months.

Section 1120.5020 Exemptions
EMERGENCY

If the SPO finds a conflict of interest under Section 50-13 of the Code with the vendor selected for award or contract negotiations, the CPO shall decide in writing whether to grant an exception and place the written determination in the contract file.

Section 1120.5030 Revolving Door
EMERGENCY

OFFICE OF THE COMPTROLLER
NOTICE OF EMERGENCY RULE

CPOs and SPOs shall maintain their designations for a period of at least two years following the end or revocation of the designation.

**Section 1120.5035 Disclosure of Financial Interests and Potential Conflicts of Interest
EMERGENCY**

- a) Distributable income means the income of a company after payment of all expenses, including employee salary and bonus, and retained earnings, and the remaining amount is actually distributed to those entitled to receive a share of such income.
- b) Personal Services shall be any contract for services subject to this Code including, by way of example, professional and artistic services, repair services, cleaning and guard services.
- c) "Competitively bid" means a contract let pursuant to Section 20-10 of the Code.
- d) The SPO may prescribe forms for the disclosure of potential conflicts of interest and financial interests of bidders or offerors required under Section 50-35 of the Code.

SUBPART Q: CONCESSIONS

**Section 1120.5310 Concessions
EMERGENCY**

Proposed concessions or leases of State property under this provision of the Code must be coordinated with DCMS to ensure compliance with the State Property Control Act [30 ILCS 605] and rules implementing that Act.

SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

**Section 1120.5510 Complaints Against Vendors
EMERGENCY**

- a) Whenever a vendor fails to deliver on time or meet specifications, or for other similar causes, the IOC shall initiate a complaint to the vendor.
- b) For relatively minor infractions, the IOC may initiate contact by telephone or in person. If not resolved by this action, a written complaint should be made.
- c) If the initial complaint is not satisfactorily answered, or for serious infractions, the IOC shall send a written complaint to the vendor detailing the problem.
- d) A copy of all written complaints and the resolution or status shall be filed with the CPO.

**Section 1120.5520 Suspension
EMERGENCY**OFFICE OF THE COMPTROLLER
NOTICE OF EMERGENCY RULE

- a) Application.
This Section applies to all debarments or suspensions of vendors from consideration for award of contracts.
- b) The Comptroller's Director of Administrative Services may suspend a vendor from doing business with the IOC or for specific types of supplies or services. A suspension may be issued upon a showing the vendor violated the Code or this Part, or failed to conform to specifications or terms of delivery.
- c) When the Comptroller's Director of Administrative Services finds cause exists for suspension, a notice of suspension, including a copy of such determination, shall be sent to the suspended vendor. Bids or proposals will not be solicited from the suspended vendor, and, if they are received they will not be considered during the period of suspension.
- d) A contractor may be suspended for a period of time commensurate with the seriousness of the offense, but for no more than five years. The suspension will be effective within seven calendar days after receipt of notice unless an objection is filed. If an objection is filed, suspension would not become effective until the evaluation of the objection is completed.
- e) The Comptroller's Director of Administrative Services may debar a vendor. Debarment is the permanent suspension of a vendor from doing business with the IOC. A debarment may only take place in those instances involving bribery or attempted bribery of a State of Illinois officer or employee, or as otherwise allowed or required by law. Bids or proposals will not be solicited from the debarred vendor, and, if received will not be considered.
- f) The Comptroller's Director of Administrative Services shall maintain a master list of all IOC suspensions and debarments and refer to the DCMS master list of all suspensions and debarments. The master list will retain information concerning suspensions and debarments as public records. Such records will be maintained for a period of at least three years following the end of the suspension or debarment. Such public information may be considered in determining responsibility.

**Section 1120.5530 Settlement and Resolution of Contract and Breach
EMERGENCY**

- a) Authority to Settle or Resolve Controversies.
The SPO that established the contract shall have authority to settle and resolve controversies but the Comptroller may set limits on such authority.
- b) Authority of Using Agency.
The IOC has the authority to accept delivery of goods or services in accordance with contract requirements as satisfactory adjustment of a complaint.
- c) Substitution of Terms/Price Reduction.

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

If the vendor proposes to make an adjustment by:

- 1) substituting an alternative specification; or
- 2) reducing the contract price by a certain amount to compensate for some failure to provide full performance under the contract,

such proposal must be referred to and approved by the SPO.

d) Cancellation for Breach of Contract.

In any of the following cases the SPO shall have the right to terminate or rescind any contract entered into under this Part:

- 1) In the event the successful bidder fails to furnish a satisfactory performance bond within the time specified.
- 2) In the event the vendor fails to make delivery at the place or within the time specified in the contract or as ordered by the IOC.

- 3) In the event any goods or services provided under the contract are rejected (for not meeting specification, not conforming to sample, or not being in good condition when delivered) and are not promptly replaced by the vendor. If there are repeated rejections of the vendor's goods or service, this shall be grounds for termination or rescission, even though the vendor offers to replace the goods or services promptly.

- 4) In the event the vendor is guilty of misrepresentation (for example, misbranding of food or drugs) in connection with another contract for the sale of goods or services to the IOC so that the vendor cannot reasonably be depended upon to fulfill his obligations as a responsible vendor under any of his contracts with the IOC.

- 5) In the event the vendor should be adjudged bankrupt; enter into a general assignment for the benefit of his creditors or receivership due to insolvency; or disregard laws and ordinances, rules, or instructions of the IOC; or act in violation of any provision of the contract or this Part; or if the contract conflicts with any statutory or constitutional provision of the State of Illinois or of the United States.
- 6) In the event of any other breach of contract or other unlawful act by the vendor.

e) Cancellation for Fraud, Collusion, Illegality, Etc.

The IOC may cancel any contract it established if there is sufficient evidence to show that:

- 1) The contract was obtained by fraud, collusion, conspiracy, or other unlawful means; or
- 2) The contract conflicts with any statutory provision of the State of Illinois or of the United States.

f) Withholding Money to Compensate State for Damages.

If a contract is terminated or rescinded under this Section, the IOC may deduct from whatever is owed the vendor on that or any other contract an amount sufficient to compensate the State of Illinois for any damages suffered by it because of the vendor's breach of contract or other unlawful act on the vendor's part on which the cancellation

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY RULE

is based.

g) Damages.

The damages for which the IOC may be compensated as provided in this Section or by a suit on the vendor's performance bond or by other legal remedy shall include, but are not limited to, the following:

- 1) the additional cost of goods or services bought elsewhere;
- 2) cost of repeating the procurement procedure;
- 3) any expenses incurred because of delay in receipt of goods or services; and
- 4) any other damages caused by the vendor's breach of contract or unlawful act.

Section 1120.5540 Violation of Statute or Rule

EMERGENCY

- a) Determination that Solicitation or Award Violates Law.

If the SPO finds that the solicitation or proposed award is in violation of statute or rule, the SPO may cancel the solicitation or proposed award, or make modifications to correct the violation, if such correction may be legally accomplished.

- b) Determination that Contract Violates Statute or Rule.

Contracts based on awards or solicitations that were in violation of law shall be terminated at no cost to the IOC.

- c) Effect of Declaring a Contract Null and Void.

In all cases in which a contract is voided, the IOC shall endeavor to return those supplies delivered under the contract that have not been used or distributed. No further payments shall be made under the contract.

Section 1120.5550 Protests

EMERGENCY

- a) Protest Resolution by the SPO.

An actual or prospective bidder, offeror, or contractor that may be aggrieved in connection with a procurement may file a protest on any phase of solicitation or award, including but not limited to specifications preparation, bid solicitation, or award.

- b) Complaint.

Complainants should seek resolution of their complaints initially with the IOC. Such complaints may be made verbally or in writing.

- c) Filing of Protest.

1) Protests shall be made in writing to the SPO and shall be filed within 14 days after the protester knows or should have known of the facts giving rise to the protest. A protest is considered filed when physically received by the SPO. Protests filed after the 14 day period shall not be considered. With respect to a protest regarding specifications, the protest must be received within 14 days after the date the solicitation was issued, and in

OFFICE OF THE COMPTROLLER
NOTICE OF EMERGENCY RULE

maintain no more than a 12 month supply in inventory. Supplies shall be ordered so as to maintain the minimum inventory commensurate with ability to meet IOC needs. This 12-month inventory restriction does not apply when a greater quantity is needed to meet minimum order quantities.

- c) Annual Inventory.
All IOC inventory storage areas shall be inventoried at least annually.
- d) Report of Inventory.
The Comptroller's Director of Administrative Services shall be notified periodically of all supplies in excess of 12 months supply.

SUBPART T: GOVERNMENTAL JOINT PURCHASING

Section 1120.6500 General
EMERGENCY

In an effort to make the procurement process more efficient, State and other governmental units may agree to utilize each others procurement contracts. Agreements between State agencies with procurement authority and other governmental units with taxing authority are governed by this Part and the Governmental Joint Purchasing Act [30 ILCS 525].

Section 1120.6510 State Use of Other Contracts
EMERGENCY

The IOC may utilize procurement contracts established by other authorized State agencies or units of government:

- a) if:
 - 1) the contract was established by competitive sealed bid or competitive sealed proposal pursuant to the Code; or
 - 2) competitive sealed bid or competitive sealed proposals are not required by the Code;
- b) if the price is reasonable;
- c) if an existing contract of the IOC would not be violated;
- d) if allowed by the vendor;
- e) if necessary State contract terms can be added; and
- f) if State legal requirements are otherwise met.

Section 1120.6520 No Agency Relationship
EMERGENCY

In any joint procurement situation, the agency establishing the contract does not become the procurement agent for the other.

SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section 1120.7000 Severability

OFFICE OF THE COMPTROLLER
NOTICE OF EMERGENCY RULE

any event must be received by the IOC at the designated address before the date for opening of bids or proposals.

- 2) To expedite handling of protests, the envelope should be labeled "Protest". The written protest shall include as a minimum the following:

- A) the name and address of the protester;
- B) appropriate identification of the procurement, and, if a contract has been awarded, its number;
- C) a statement of reasons for the protest; and
- D) supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time, in which case the expected availability date shall be indicated.

- d) Requested Information; Time for Filing.

Any additional information requested by the IOC shall be submitted within the time periods established by the requesting source in order to expedite consideration of the protest. Failure of the protesting party to comply expeditiously with a request for information by the SPO may result in resolution of the protest without consideration of that information.

- e) Stay of Procurements During Protest.

When a protest has been timely filed and before an award has been made, the SPO shall make no award of the contract and any award made shall be stayed until the protest has been resolved. The CPO may authorize award or reinstate the contract if necessary to protect the interests of the State.

- f) Decision by the CPO or SPO.

Time for Decisions. A decision on a protest shall be made by the SPO as expeditiously as possible after receiving all relevant, requested information. If a protest is sustained, the available remedies include, but are not limited to, reversal of award and cancellation or revision of the solicitation.

- g) Effect of Judicial or Administrative Proceedings.

If an action concerning the protest has commenced in court, the CPO or SPO shall not act on the protest but shall refer the protest to the IOC's Chief Legal Counsel.

SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

Section 1120.6010 Supply Management and Dispositions
EMERGENCY

- a) Inventory Responsibility.

The IOC shall maintain accountability over tangible personal property and other supplies under its control subject to the requirements of the State Property Control Act and rules implementing that Act.

- b) Supply Management.

The IOC shall order supplies on a schedule and in quantities so as to

OFFICE OF THE COMPTROLLER
NOTICE OF EMERGENCY RULE

EMERGENCY

If any provision of this Part or any application thereof is held invalid, such invalidity shall not affect other provisions or applications of this Part that can be given effect without such invalid provision or application.

Section 1120.7010 Government Furnished Property
EMERGENCY

If the IOC provides any property to the vendor in furtherance of the contract, such property shall remain the property of the State but may be consumed by the vendor if necessary to complete the contract. Vendor will issue a receipt for the property and will be responsible for its safekeeping and return of unused property to the State.

Section 1120.7015 Inspections
EMERGENCY

- a) Inspection of Plant or Site.
The IOC may enter a contractor's or subcontractor's plant or place of business to:
- 1) inspect supplies or services for acceptance by the State pursuant to the terms of a contract;
 - 2) audit the books and records of any contractor or subcontractor pursuant to Section 1120.7020 (Records and Audits) of this Part;
 - 3) investigate an action to debar or suspend a person from consideration for award of contracts pursuant to the Code;
 - 4) determine whether the standards of responsibility have been met or are capable of being met;
 - 5) determine if the contract is being performed in accordance with its terms; and
 - 6) accomplish any other purpose permitted by law.
- b) Inspection and Testing of Supplies and Services.
State contracts may
- 1) Solicitation and Contractual provisions. State contracts may provide that the IOC may inspect supplies and services at the contractor's or subcontractor's facility and perform tests to determine whether they conform to solicitation requirements, or, after award, to contract requirements, and are therefore acceptable. Such inspections and tests shall be conducted in accordance with the terms of the solicitation and contract.
 - 2) Procedures for Trial Use and Testing. The Comptroller's Director of Administrative Services may establish operational procedures governing the testing and trial use of equipment, material, and other supplies, and the application of resulting information and data to specifications or procurements.
- c) Conduct of Inspections.
- 1) Inspectors. Inspections or tests shall be performed so as not to unduly delay the work of the contractor or subcontractor. No

OFFICE OF THE COMPTROLLER
NOTICE OF EMERGENCY RULE

inspector other than the SPO may change any provision of the specifications or the contract without written authorization of the SPO. The presence or absence of an inspector shall not relieve the contractor or subcontractor from any requirements of the contract.

- 2) Location. When an inspection is made in the plant or place of business of a contractor or subcontractor, such contractor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.
- 3) Time. Inspection or testing of supplies and services performed at the plant or place of business of any contractor or subcontractor shall be performed at reasonable times.

Section 1120.7020 Records and Audits
EMERGENCY

- a) Retention of Books and Records.
Books and records that relate to performance of an IOC contract, including subcontracts, and that support amounts charged to the IOC shall be maintained:
- 1) by a contractor, for three years from the date of final payment under the prime contract;
 - 2) by a subcontractor, for at least three years from the date of final payment under the subcontract; and
 - 3) by a contractor and subcontractor for such longer period of time as is necessary to complete ongoing or announced audits.
- b) Contract Audit.
- 1) Types of Contracts Audited. The type of contract under which books and records should be audited is that in which price is based on costs or is subject to adjustment based on costs, or that in which auditing would be appropriate to assure satisfactory performance, such as a time and materials contract.
 - 2) Situations in which an audit may be warranted include but are not limited to when a question arises in connection with:
 - A) the financial condition, integrity, and reliability of the contractor or subcontractor;
 - B) any prior audit experience;
 - C) the adequacy of the contractor's or subcontractor's accounting system;
 - D) the number or nature of invoices or reimbursement vouchers submitted by the contractor or subcontractor for payment;
 - E) the use of federal assistance funds;
 - F) the fluctuation of market prices affecting the contract; or
 - G) any other situation when the CPO or SPO finds that such an audit is necessary for the protection of the State's best interest.

OFFICE OF THE COMPTROLLER
NOTICE OF EMERGENCY RULE

Section 1120.7025 Written Determinations
EMERGENCY

- a) Preparation and Execution.
When the Code or this Part requires a written determination, the officer required to prepare the determination may delegate the preparation, but the responsibility for and the execution of the determination shall not be delegated.
- b) Content.
Each written determination shall set out sufficient facts, circumstances, and reasoning as will substantiate the specific determination that is made.
- c) Obtaining Supporting Information.
While an officer is responsible for the execution of the written determination, other State personnel, particularly technical personnel, are responsible for furnishing to the cognizant official, in an accurate and adequate fashion, the information pertinent to the determination. When requested, such information shall be furnished in writing to the cognizant official who shall have the authority to decide the final form and content of the determination and to resolve any questions or conflicts arising with respect to the determination.
- d) Forms.
The Comptroller's Director of Administrative Services shall prescribe methods and operational procedures to be used in preparing written determinations.
- e) Retention.
Each written determination shall be filed in the solicitation or contract file to which it applies, shall be retained as part of such file for so long as the file is required to be maintained, and, except as otherwise provided by statute or rule, shall be open to public inspection.

Section 1120.7030 No Waiver of Sovereign Immunity
EMERGENCY

Nothing in this Part shall be deemed to be a waiver of sovereign immunity.

DEPARTMENT OF HUMAN SERVICES
NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Audit Requirements of DHS
- 2) Code Citation: 89 Ill. Adm. Code: 507
- 3) Section Numbers: Emergency Action:
507.10 New Rule
- 4) Statutory Authority: Implementing and authorized by Department of Human Service Act [20 ILCS 1305].
- 5) Effective Date of Rule: June 24, 1998
- 6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not applicable.
- 7) Date filed in Agency's Principal Office: June 24, 1998
- 8) Reason for Emergency: This rule is needed to provide uniform requirements to providers for cost reporting and audit requirements as a result of the merger of several State agencies (DPA, DORS, DMHDD, DASA, DPH and DCFS) into the Department of Human Services. This rule will avoid jeopardizing the expenditure of public funds and solidify the Departments relationship with service providers thereby curtailing any negative impact on delivery of services of DHS clients because of the merger of the legacy agencies into the Department.
- 9) A Complete Description of the Subject and Issues Involved: This section contains the Audit Requirements for each provider receiving purchase of service or grant contract funding from the Department of Human Services. The requirements vary by the total funding received by the Provider from DHS and other sources. The Section explains the type of audit required, submission standards and submission dates.
- 10) Are there any other amendments pending on this Part? No
- 11) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.
- 12) Information and questions regarding this rule shall be directed to:

Ms. Susan Weir, Bureau Chief
Bureau Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harzis Bldg.
Springfield, Illinois 62762

Telephone number: (217) 785-9772

DEPARTMENT OF HUMAN SERVICES
NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

PART 507
AUDIT REQUIREMENTS OF DHS

Section
507.10 Audit Requirements
EMERGENCY

AUTHORITY: Implementing and authorized by Department of Human Services Act [20 ILCS 1305].

SOURCE: Emergency rule added at 22 Ill. Reg. 16154, effective June 24, 1998, for a maximum of 150 days.

Section 507.10 Audit Requirements
EMERGENCY

- a) Each Provider receiving purchase of service or grant contract funding (Provider) from the Department of Human Services (Department) shall annually submit an independent audit report or supplemental revenue and expense data to the Department, to enable the Department to perform fiscal monitoring and to account for the usage of funds paid to the Provider under Agreements with the Department. Providers subject to these requirements shall be notified by registered or certified letter no later than May 31 of the year of the contract. This letter shall contain detailed instructions related to independent audit requirements, including provisions for requesting waivers, modifications and filing extensions.
- b) If the Provider's combined purchase of service or grant contract funding for Department programs and other State funding is less than \$100,000, the Provider will be required to submit supplemental revenue and expense data. Two copies shall be filed with the Department's Office of Contract Administration. The report shall be submitted within 120 days after the end of the Provider's fiscal year.
- c) If the Provider's combined purchase of service or grant contract funding for Department programs and other State funding is less than \$300,000 but \$100,000 or greater, the Provider will be required to submit supplemental revenue and expense data with an opinion from an Independent Certified Public Accountant. Two copies shall be filed with the Department's Office of Contract Administration. The report with an opinion shall be submitted within 120 days after the end of the Provider's fiscal year.
- d) If the Providers combined purchase of service or grant contract funding for Department programs and other State funding is \$300,000 or greater, the Provider shall be required to submit an independent audit

DEPARTMENT OF HUMAN SERVICES
NOTICE OF EMERGENCY AMENDMENT

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

The full text of the Emergency Rule begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENT

report and supplemental revenue and expense data. For Providers required to submit an independent audit report, the basic requirements are:

- 1) The audit shall be conducted by a Certified Public Accountant or Certified Public Accounting Firm registered in the State of Illinois;
- 2) The audit report shall include the financial statements prescribed by the Financial Accounting Standards Board for not-for-profit organizations, or the Governmental Accounting Standards Board for governmental entities, as appropriate;
- 3) The audits shall be conducted in accord with the "single audit" requirements and standards when the Provider receives or expends Federal funds that cumulatively exceed the Federal threshold. These requirements are detailed in Federal OMB Circular A-133, "Audits of States, Local Governments and Non-Profit Organizations"; and
- 4) The report shall be submitted within 120 days after the end of the Provider's fiscal year. Two copies of any reports prepared in accordance with Federal OMB Circular A-133 shall be filed with the Department's Office of Contract Administration. Any request for an extension of time to file an independent audit report or supplemental revenue and expense data shall be submitted to the Department's Manager of the Office of Contract Administration. The Manager of the Office of Contract Administration shall respond in writing to each such request within 14 days after it is received by the Office of Contract Administration.
- e) A request for exception to the audit requirements prescribed in this Section shall be submitted to the Department's Manager of the Office of Contract Administration. Such requests shall be approved only when convincingly justified. The Department's Manager of the Office of Contract Administration shall respond in writing to each request for exception within 14 days after it is received by the Office of Contract Administration.
- f) Audit requirements may be waived by the Manager of the Office of Contract Administration when it is deemed to be in the interest of the State of Illinois or when it enhances the operating efficiency of the State. A written determination for the waiver shall be maintained by the Office of Contract Administration. Providers that do not receive a notification by May 31, as described in Section 507.10(a), are deemed to have their audit requirements waived.
- g) Failure to meet these audit requirements shall result in the suspension of funding.

(Source: Added by emergency rulemaking at 22 Ill. Reg. effective June 24, 1998, for a maximum of 150 days)

12154

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Award and Monitoring of Funds
- 2) Code Citation: 77 Ill. Adm. Code 2030
- 3) Section Numbers: Emergency Action:
2030.620 Repeal
2030.810 Amendment
- 4) Statutory Authority: Authorized by the Illinois Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301].
- 5) Effective Date of Amendments: June 24, 1998
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not applicable
- 7) Date filed in Agency's Principal Office: June 24, 1998
- 8) Reason for Emergency: This amendment is needed to provide uniform requirements to providers for cost reporting and audit requirements as a result of the merger of several State agencies (DPA, DORS, DMHDD, DASA, DPH and DCFS) into the Department of Human Services. This rule will avoid jeopardizing the expenditure of public funds and solidify the Department's relationship with service providers thereby curtailing any negative impact on delivery of services of DHS clients because of the merger of the legacy agencies into the Department.
- 9) A Complete Description of the Subject and Issues Involved: Section 2030.620 is being repealed in conjunction with the Department's efforts to consolidate Audit Requirements. The new Audit Requirements will assure compliance with State and Federal laws and regulations. Section 2030.810 is being amended to change "one visit" requirement to "periodic". This will allow DHS to concentrate its monitoring efforts on agencies with multiple contracts or large funding amounts.
- 10) Are there any other amendments pending on this Part? No
- 11) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create nor expand a State mandate.
- 12) Information and questions regarding this amendment shall be directed to:

Ms. Susan Weir, Bureau Chief
Bureau Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762

DEPARTMENT OF HUMAN SERVICES
NOTICE OF EMERGENCY AMENDMENTS

Telephone number: (217) 785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

The full text of the Emergency Rule Amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES
NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER X: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER C: ADMINISTRATION OF FUNDING

PART 2030

AWARD AND MONITORING OF FUNDS

SUBPART A: GENERAL

Section
2030.10 Applicability
2030.20 Definitions
2030.30 Exceptions
2030.40 Special Award Conditions

SUBPART B: AWARD CRITERIA AND PROCEDURE

Section
2030.100 Recipient Eligibility
2030.105 Services Eligible for Grant-in-Aid Funding
2030.107 Services Eligible for Purchased-Care or Fee-for-Service Funding
2030.110 Other Activities for Which Awards May be Made
2030.115 Award Process
2030.120 Department Budget Planning Requirements
2030.130 Provider Plan/Recipient Budget
2030.140 Award Document
2030.150 Subawards
2030.160 Modification or Amendment of the Award Document

SUBPART C: DEPARTMENT APPROVAL FOR PROGRAMMATIC AND BUDGET REVISIONS
AND FOR COSTS REQUIRING PRIOR APPROVAL

Section
2030.210 Process
2030.220 Programmatic Changes
2030.230 Budget Revision

SUBPART D: COST PRINCIPLES/ALLOWABILITY

Section
2030.310 Applicability
2030.320 Allowable Costs
2030.330 Approval of Costs
2030.340 Allocation of Costs/Direct and Indirect Costs
2030.350 Costs Allowable with Prior Approval of the Department
2030.360 Unallowable or Limited Costs

SUBPART E: NON-DEPARTMENTAL FUNDING

DEPARTMENT OF HUMAN SERVICES
NOTICE OF EMERGENCY AMENDMENTS

Section

2030.410 Non-Department Funding
2030.420 Record Keeping
2030.430 Program Income
2030.440 Maintenance of Effort
2030.450 Client Fees

SUBPART F: MATCHING AND COST PARTICIPATION REQUIREMENTS

Section

2030.510 General
2030.520 Definitions
2030.530 Eligible Costs
2030.540 Criteria for Contributions
2030.550 Valuation of In-Kind Contributions

SUBPART G: FINANCIAL MANAGEMENT

Section

2030.610 Accounting and Financial Management Requirements
2030.620 Audit Requirements (Repealed)

EMERGENCY

SUBPART H: FINANCIAL REPORTING

Section

2030.710 General
2030.720 Quarterly Revenue/Expense Reports--Grant-in-Aid Recipients
2030.730 Lapsed Grant-in-Aid Funds
2030.740 End of the Year Report
2030.750 Purchased-Care/Fee-for-Service Invoicing and Auditing
2030.760 Exempt Recipients

SUBPART I: MONITORING AND REPORTING OF PROGRAM PERFORMANCE

Section

2030.810 Site Visits

EMERGENCY

2030.820 Reports
2030.830 Underutilization
2030.840 Criminal Justice System Referrals
2030.850 Prior Submissions

SUBPART J: FUND DISBURSEMENT

Section

2030.910 General

DEPARTMENT OF HUMAN SERVICES
NOTICE OF EMERGENCY AMENDMENTS

SUBPART K: TERMINATION, SUSPENSION, CLOSEOUT

Section

2030.1010 Definitions
2030.1020 Unilateral Termination
2030.1030 Termination by Agreement
2030.1040 Termination or Suspension for Cause
2030.1050 Actions on Termination
2030.1060 Suspension Process
2030.1070 Summary Suspension
2030.1080 Termination for Cause Process
2030.1090 Closeout

SUBPART L: PROPERTY MANAGEMENT STANDARDS

Section

2030.1110 Scope
2030.1120 Definitions
2030.1130 Real Property
2030.1140 Non-Expendable Personal Property
2030.1150 Expendable Personal Property
2030.1160 Copyrights, Patents and Royalties

SUBPART M: GENERAL PROVISIONS REGARDING AWARD PERFORMANCE

Section

2030.1205 Civil Rights/Nondiscrimination
2030.1210 Compliance During Award Period
2030.1215 Conflict of Interest
2030.1220 Notices
2030.1225 Personnel Administration
2030.1230 Procurement Standards
2030.1245 Protection of Client Records/Confidentiality
2030.1250 Publicity and Publications
2030.1255 Retention and Access Requirements for Records
2030.1265 Severability

SUBPART N: SPECIAL PROVISIONS

Section

2030.1310 Special Provisions for Purchase of Medical Services
2030.1320 Special Provisions for Prevention Services

AUTHORITY: Authorized by the Illinois Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301].

SOURCE: Old Part repealed, new Part adopted at 16 Ill. Reg. 2457, effective February 4, 1992; recodified from Department of Alcoholism and Substance Abuse

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

entirety an audit report shall be filed with the Department which includes the Department award period within 30 days after completion of the audit.

d) In order to facilitate meeting filing requirements, fund recipients are encouraged to contract with certified public accountants before the end of the fiscal year.

e) A request for an extension of time to file an audit report must be submitted in writing and requires prior written approval of the Department's Chief Auditor. A request for an exception to these audit requirements due to unusual circumstances must be submitted in writing and requires the prior written approval of the Department. Such requests will only be approved when they result from circumstances beyond the control of both the agency and its certified public accountant or when approval would be clearly to the benefit of the State.

f) The certified public accountant shall communicate in written form material weakness in the fund recipient's internal controls when it impacts on the Department's funding. Copies of these communications are to be forwarded to the Department with the audit report. The fund recipient's comments or recommendations, including a plan for corrective action, are also to be submitted to the Department.

g) The audit report shall contain disclosures of any transactions with related parties or organizations.

h) The following supplementary financial information shall be included in the audit reports for the twelve months ended June 30: For fund recipients with a fiscal year close of other than June 30, this information is to be for the twelve months that ended the previous June 30. Failure to include such information shall make the report unacceptable.

Section 2030.620 Audit Requirements (Repealed)

EMERGENCY

a) Each fund recipient that receives \$25,000 or more in Department awards per annum is required to have an annual audit as of the close of its fiscal year. Fund recipients awarded less than \$25,000 shall maintain appropriate accounting records and provide them for Department review upon request. Any audit performed for other purposes shall also be submitted. Audits are to be performed in accordance with generally accepted auditing standards by an independent certified public accountant registered by the State of Illinois. The resultant audit report is to be prepared in accordance with the applicable American Institute of Certified Public Accountants (AICPA) industry audit guide, such as the Audits of Voluntary Health and Welfare Organizations. Units of government have different standards including Government Auditing Standards, Standards for Audit of Governmental Organizations, Programs, Activities, and Functions, United States General Accounting Office July 1980 (the Yellow Book), and the Single Audit Act of 1984 (31 U.S.C.A. Section 7501 et seq.) and federally issued OMB Circular A-133, Audits of State and Local Governments, (4712/05).

Institutions of Higher Education and other nonprofit organizations that receive at least \$25,000 but less than \$100,000 in Federal funds (from all sources) have the option of applying the requirements of OMB Circular A-133 Audits of Institutions of Higher Education and other Non-Profit Institutions (3/16/98) to their entire organization or completing separate program audit requirements pursuant to the Federal laws and regulations of the programs in which they participate. Fund recipients that receive \$100,000 or more in Federal awards (from all sources) shall have an audit performed in accordance with the provisions of OMB Circular A-133, unless all Federal funds are from a single program in which case, an audit may be made of the one program.

b) The audit report shall contain the basic financial statements presenting the financial position of the agency, the results of its operations, cash flows, and changes in fund balances. The report shall also contain the certified public accountant's opinion regarding the financial statements, taken as a whole, or an assertion to the effect that an opinion cannot be expressed, if the certified public accountant expresses a qualified opinion, a disclaimer of opinion, or an adverse opinion; the reason therefor must be stated.

c) The audit report is to be filed with the Department within 120 days after the end of a fund recipient's fiscal year. For governmental

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

to Department of Human Services at 21 Ill. Reg. 9319; emergency amendment at 22 Ill. Reg. 12163, effective June 24, 1998, for a maximum of 150 days.

SUBPART G: FINANCIAL MANAGEMENT

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

funded--and-unfunded--programs--with--the--funded--programs--to--be--identified--by--the--Department's--program--title--and--number--the--statement--shall--compare--budgeted--and--actual--amounts--for--each--funded--program--and--shall--include--the--allocation--of--administrative--expenses--to--the--various--programs--

e) the--certified--public--accountant--should--clearly--establish--a--position--regarding--the--supplementary--financial--information--presented--in--the--schedules--of--income--by--source--and--by--program--and--expenses--by--program--operating--fund--This--can--be--done--either--by--extending--the--overall--opinion--of--the--basic--financial--statements--or--by--a--supplementary--opinion--if--the--certified--public--accountant--determines--that--the--additional--procedures--necessary--to--permit--a--supplementary--opinion--on--the--supplementary--financial--information--would--materially--increase--the--audit--time--the--certified--public--accountant--may--alternatively--state--the--source--of--the--information--and--the--extent--of--the--examination--and--responsibility--assumed--if--any--

b) The--supplementary--schedules--are--always--to--agree--with--or--be--reconciled--to--the--audited--financial--statements--unless--a--fund--recipient's--fiscal--year--ends--on--a--date--other--than--June--30--

h) Failure--to--meet--these--audit--requirements--will--result--in--suspension--of--funding--

i) Confirmation--of--Department--payments--made--to--a--fund--recipient--required--by--the--certified--public--accountant--during--the--course--of--the--audit--are--to--be--secured--from--the--Department's--Division--of--Management--and--Budget--In--addition--to--audits--by--independent--certified--public--accountants--compliance--audits--of--selected--fund--recipients--will--be--performed--by--or--for--the--Department's--Office--of--Internal--Audits--Such--audits--shall--be--performed--in--accordance--with--procedures--for--Department--audits--and--the--processing--of--reports--resulting--from--them--

k) The--Department--will--also--perform--desk--reviews--on--annual--certified--audit--reports--submitted--to--the--Department--

(Source: Repealed by emergency rulemaking at 22 Ill. Reg. 12153, effective June 24, 1998, for a maximum of 150 days)

SUBPART I: MONITORING AND REPORTING OF PROGRAM PERFORMANCE

Section 2030.810 Site Visits

EMERGENCY

a) The Department shall monitor performance under the award document and shall conduct periodic visits at least one site visit per year to each provider. The frequency of any other visits shall be determined by the nature, size, and complexity of the fund supported activity, and other appropriate factors by which the Department determines that

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

on-site review is required to monitor provider performance. The site visit is for the purpose of evaluating performance under the award document. It shall focus on:

1) actual accomplishment of and/or progress towards goals and objectives established by the award document for the term of review;

2) reasons why established goals and objectives were not met;

3) accountability for Department funds, including assessment of necessity and reasonableness of costs, budget performance, cash management, accounting practices, financial management and long range planning, analysis and explanation of cost overruns on high cost units;

4) quality and effectiveness of services provided during the term of review, including effectiveness of community networks;

5) assurance that time schedules and projected work units by time periods are being met; and

6) compliance with award document conditions.

b) Providers shall make available to representatives of the Department all financial records, client attendance and/or service records, and case records and other documentation related to the award activities.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 12153, effective June 24, 1998, for a maximum of 150 days)

DEPARTMENT OF HUMAN SERVICES
NOTICE OF EMERGENCY AMENDMENTS

DEPARTMENT OF HUMAN SERVICES
NOTICE OF EMERGENCY AMENDMENTS

10) Are there any other amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
121.160	Amendment	22 Ill. Reg. 9654
121.162	Amendment	22 Ill. Reg. 9654
121.164	Amendment	22 Ill. Reg. 9654
121.177	New Section	22 Ill. Reg. 9654
121.179	New Section	22 Ill. Reg. 9654
121.182	Amendment	22 Ill. Reg. 8258
121.184	Amendment	22 Ill. Reg. 9654
121.188	Amendment	22 Ill. Reg. 9654
121.220	Amendment	22 Ill. Reg. 9654
121.225	New Section	22 Ill. Reg. 9654
121.226	New Section	22 Ill. Reg. 9654

11) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

12) Information and questions regarding these amendments shall be directed to:

Mrs. Susan Warrner Weir, Bureau Chief
Bureau Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
(217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

The full text of the Emergency Amendments begins on the next page:

- 1) Heading of the Part: Food Stamps
- 2) Code Citation: 89 Ill. Adm. Code 121
- 3) Section Numbers: 121.105
Emergency Action: Amendment
- 4) Statutory Authority: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13] and Senate Bill 320
- 5) Effective Date of Amendments: July 1, 1998
- 6) If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which they are to expire: Not applicable

7) Date filed in Agency's Principal Office: July 1, 1998

8) Reason for Emergency: The federal budget agreement eliminated Food Stamp benefits for legal immigrants as of August 22, 1996. In Illinois, the loss of support for Food Stamps put thousands of legal immigrants in dire need of help. This rulemaking is necessary to continue to provide food assistance to help those at the greatest risk--thousands of elderly and disabled immigrants and immigrant children. To help meet this need, the Department implemented the State Food Program on January 1, 1998.

Funds were initially appropriated for this program through June, 1998. However, per recent State legislation, funding for the State Food Program will continue. These emergency amendments continue the State Food Program beyond June 30, 1998. Immediate implementation of these amendments is necessary to provide nutrition services to these needy individuals effective July 1, 1998.

9) A Complete Description of the Subject and Issues: These proposed amendments extend the State Food Program beyond June 30, 1998. Senate Bill 320 authorized the Department to provide nutrition services to non-citizens who are 65 years of age or older, under 18 years of age, or disabled, and who were in the United States prior to August 22, 1996 and are not eligible for the federal Food Stamp Program due to their non-citizen status. The State Food Program was created to provide assistance with the food needs of individuals ineligible for the Food Stamp Program solely due to citizenship requirements. To qualify, individuals must be under age 18, or age 65 or older, or disabled. Individuals who qualify for the program and are under age 18 receive \$80 in monthly food stamp benefits. Individuals who qualify for the program and are elderly or disabled receive \$43 in monthly food stamp benefits.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMSPART 121
FOOD STAMPS

SUBPART A: APPLICATION PROCEDURES

Section	
121.1	Application for Assistance
121.2	Time Limitations on the Disposition of an Application
121.3	Approval of an Application and Initial Authorization of Assistance
121.4	Denial of an Application
121.5	Client Cooperation
121.6	Emergency Assistance
121.7	Expedited Services
121.10	Interviews

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section	
121.18	Work Requirement
121.19	Ending a Voluntary Quit Disqualification
121.20	Citizenship
121.21	Residence
121.22	Social Security Numbers
121.23	Work Registration/Participation Requirements
121.24	Individuals Exempt From Work Registration Requirements
121.25	Failure to Comply
121.26	Period of Sanction
121.27	Voluntary Job Quit
121.28	Good Cause for Voluntary Job Quit
121.29	Exemptions from Voluntary Quit Rule

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section	
121.30	Unearned Income
121.31	Exempt Unearned Income
121.32	Education Benefits
121.33	Unearned Income In-Kind
121.34	Lump Sum Payments and Income Tax Refunds
121.40	Earned Income
121.41	Budgeting Earned Income
121.50	Exempt Earned Income
121.51	Income from Work/Study/Training Programs

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

121.52	Earned Income from Roomer and Boarder
121.53	Income From Rental Property
121.54	Earned Income In-Kind
121.55	Sponsors of Aliens
121.57	Assets
121.58	Exempt Assets
121.59	Asset Disregards

SUBPART D: ELIGIBILITY STANDARDS

Section	
121.60	Net Monthly Income Eligibility Standards
121.61	Gross Monthly Income Eligibility Standards
121.62	Income Which Must Be Annualized
121.63	Deductions From Monthly Income
121.64	Food Stamp Benefit Amount

SUBPART E: HOUSEHOLD CONCEPT

Section	
121.70	Composition of the Assistance Unit
121.71	Living Arrangement
121.72	Nonhousehold Members
121.73	Ineligible Household Members
121.74	Strikers
121.75	Students
121.76	Households Receiving AFDC, SSI, Interim Assistance and/or GA - Categorical Eligibility

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

Section	
121.80	Fraud Disqualification (Renumbered)
121.81	Initiation of Administrative Fraud Hearing (Repealed)
121.82	Definition of Fraud (Renumbered)
121.83	Notification To Applicant Households (Renumbered)
121.84	Disqualification Upon Finding of Fraud (Renumbered)
121.85	Court Imposed Disqualification (Renumbered)
121.90	Monthly Reporting and Retrospective Budgeting
121.91	Monthly Reporting
121.92	Retrospective Budgeting
121.93	Issuance of Food Stamp Benefits
121.94	Replacement of the EBT Card or Food Stamp Benefits
121.95	Restoration of Lost Benefits
121.96	Uses For Food Coupons
121.97	Supplemental Payments
121.98	Client Training for the Electronic Benefits Transfer (EBT) System
121.105	State Food Program

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

EMERGENCY

- 121.120 Recertification of Eligibility
- 121.130 Residents of Shelters for Battered Women and their Children
- 121.131 Fleeing Felons and Probation/Parole Violators
- 121.135 Incorporation By Reference
- 121.140 Small Group Living Arrangement Facilities and Drug/Alcoholic Treatment Centers

SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

- Section
- 121.150 Definition of Intentional Violations of the Program
- 121.151 Penalties for Intentional Violations of the Program
- 121.152 Notification To Applicant Households
- 121.153 Disqualification Upon Finding of Intentional Violation of the Program
- 121.154 Court Imposed Disqualification

SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

- Section
- 121.160 Persons Required to Participate
- 121.162 Participation and Cooperation Requirements
- 121.164 Orientation
- 121.166 Assessment and Employability Plan
- 121.170 Job Search Component
- 121.172 Basic Education Component
- 121.174 Job Readiness Component
- 121.176 Work Experience Component
- 121.178 Job Training Component
- 121.180 Grant Diversion Component
- 121.182 Earnfare Component
- 121.184 Sanctions
- 121.186 Good Cause for Failure to Cooperate
- 121.188 Supportive Services
- 121.190 Conciliation and Fair Hearings
- 121.200 Types of Claims (Recodified)
- 121.201 Establishing a Claim for Intentional Violation of the Program (Recodified)
- 121.202 Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)
- 121.203 Collecting Claim Against Households (Recodified)
- 121.204 Failure to Respond to Initial Demand Letter (Recodified)
- 121.205 Methods of Repayment of Food Stamp Claims (Recodified)
- 121.206 Determination of Monthly Allotment Reductions (Recodified)
- 121.207 Failure to Make Payment in Accordance with Repayment Schedule (Recodified)
- 121.208 Suspension and Termination of Claims (Recodified)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

SUBPART I: WORK REQUIREMENT FOR FOOD STAMPS

- Section
- 121.220 Workfare Components
- 121.221 Meeting the Work Requirement with the Earnfare Component
- 121.222 Volunteer Community Work Component
- 121.223 Work Experience Component
- 121.224 Supportive Service Payments to Meet the Work Requirement

AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

SOURCE: Adopted December 30, 1977; amended at 3 Ill. Reg. 5, p. 875, effective February 2, 1979; amended at 3 Ill. Reg. 31, p. 109, effective August 3, 1979; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 41, p. 165, effective October 11, 1979; amended at 3 Ill. Reg. 42, p. 230, effective October 9, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 3, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 49, effective January 9, 1980; peremptory amendment at 4 Ill. Reg. 10, p. 253, effective February 23, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 17, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 4586, effective April 15, effective January 16, 1981; amended at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; amended at 5 Ill. Reg. 12736, effective October 29, 1981; amended at 6 Ill. Reg. 1653, effective January 17, 1982; amended at 6 Ill. Reg. 2707, effective March 2, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10208, effective August 9, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 5715, effective May 1, 1983; amended at 7 Ill. Reg. 8118, effective June 24, 1983; peremptory amendment at 7 Ill. Reg. 12899, effective October 1, 1983; amended at 7 Ill. Reg. 13655, effective October 4, 1983; peremptory amendment at 7 Ill. Reg. 16067, effective November 18, 1983; amended at 7 Ill. Reg. 16169, effective November 22, 1983; amended at 8 Ill. Reg. 5673, effective April 18, 1984; amended at 8 Ill. Reg. 7249, effective May 16, 1984; peremptory amendment at 8 Ill. Reg. 10086, effective July 1, 1984; amended at 8 Ill. Reg. 13284, effective July 16, 1984; amended at 8 Ill. Reg. 17900, effective September 14, 1984; amended (by adding Section

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

being codified with no substantive change) at 8 Ill. Reg. 17898; peremptory amendment at 8 Ill. Reg. 19690, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 22145, effective November 1, 1984; amended at 9 Ill. Reg. 302, effective January 1, 1985; amended at 9 Ill. Reg. 6804, effective May 1, 1985; amended at 9 Ill. Reg. 8665, effective May 29, 1985; peremptory amendment at 9 Ill. Reg. 8898, effective July 1, 1985; amended at 9 Ill. Reg. 11334, effective July 8, 1985; amended at 9 Ill. Reg. 14334, effective September 6, 1985; peremptory amendment at 9 Ill. Reg. 15582, effective October 1, 1985; amended at 9 Ill. Reg. 16889, effective October 16, 1985; amended at 9 Ill. Reg. 19726, effective December 9, 1985; amended at 10 Ill. Reg. 7387, effective April 21, 1986; peremptory amendment at 10 Ill. Reg. 7941, effective May 1, 1986; amended at 10 Ill. Reg. 14692, effective August 29, 1986; peremptory amendment at 10 Ill. Reg. 15714, effective October 1, 1986; Sections 121.200 thru 121.208 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; peremptory amendment at 11 Ill. Reg. 3761, effective February 11, 1987; emergency amendment at 11 Ill. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10269, effective May 22, 1987; amended at 11 Ill. Reg. 10621, effective May 25, 1987; peremptory amendment at 11 Ill. Reg. 11391, effective July 1, 1987; peremptory amendment at 11 Ill. Reg. 11855, effective June 30, 1987; emergency amendment at 11 Ill. Reg. 12043, effective July 6, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13635, effective August 1, 1987; amended at 11 Ill. Reg. 14022, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 15480, effective September 4, 1987; amended at 11 Ill. Reg. 15634, effective September 11, 1987; amended at 11 Ill. Reg. 18218, effective October 30, 1987; peremptory amendment at 11 Ill. Reg. 18374, effective October 30, 1987; amended at 12 Ill. Reg. 877, effective December 30, 1987; emergency amendment at 12 Ill. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 4204, effective February 5, 1988; amended at 12 Ill. Reg. 9678, effective May 23, 1988; amended at 12 Ill. Reg. 9922, effective June 1, 1988; amended at 12 Ill. Reg. 11463, effective June 30, 1988; amended at 12 Ill. Reg. 12824, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 14045, effective August 19, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 15704, effective October 1, 1988; peremptory amendment at 12 Ill. Reg. 16271, effective October 1, 1988; amended at 12 Ill. Reg. 20161, effective November 30, 1988; amended at 13 Ill. Reg. 3890, effective March 10, 1989; amended at 13 Ill. Reg. 13619, effective August 14, 1989; peremptory amendment at 13 Ill. Reg. 15859, effective October 1, 1989; amended at 14 Ill. Reg. 729, effective January 1, 1990; amended at 14 Ill. Reg. 6349, effective April 13, 1990; amended at 14 Ill. Reg. 13202, effective August 6, 1990; peremptory amendment at 14 Ill. Reg. 15158, effective October 1, 1990; amended at 14 Ill. Reg. 16983, effective September 30, 1990; amended at 15 Ill. Reg. 11150, effective July 22, 1991; amended at 15 Ill. Reg. 11957, effective August 12, 1991; peremptory amendment at 15 Ill. Reg. 14134, effective October 1, 1991; emergency amendment at 16 Ill. Reg. 757, effective January 1, 1992, for a maximum of 150 days; amended at

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

16 Ill. Reg. 10011, effective June 15, 1992; amended at 16 Ill. Reg. 13900, effective August 31, 1992; emergency amendment at 16 Ill. Reg. 16221, effective October 1, 1992, for a maximum of 150 days; peremptory amendment at 16 Ill. Reg. 16345, effective October 1, 1992; amended at 16 Ill. Reg. 16624, effective October 23, 1992; amended at 17 Ill. Reg. 644, effective December 31, 1992; amended at 17 Ill. Reg. 4333, effective March 19, 1993; amended at 17 Ill. Reg. 14625, effective August 26, 1993; emergency amendment at 17 Ill. Reg. 15149, effective September 7, 1993, for a maximum of 150 days; peremptory amendment at 17 Ill. Reg. 17477, effective October 1, 1993; expedited correction at 17 Ill. Reg. 21216, effective October 1, 1993; amended at 18 Ill. Reg. 2033, effective January 21, 1994; emergency amendment at 18 Ill. Reg. 2509, effective January 27, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 3427, effective February 28, 1994; amended at 18 Ill. Reg. 8921, effective June 3, 1994; amended at 18 Ill. Reg. 12829, effective August 5, 1994; amended at 18 Ill. Reg. 14103, effective August 26, 1994; amended at 19 Ill. Reg. 5626, effective March 31, 1995; amended at 19 Ill. Reg. 6648, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 12705, effective September 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13595, effective October 1, 1995; amended at 20 Ill. Reg. 1593, effective January 11, 1996; peremptory amendment at 20 Ill. Reg. 2229, effective January 17, 1996; amended at 20 Ill. Reg. 7902, effective June 1, 1996; amended at 20 Ill. Reg. 11935, effective August 14, 1996; emergency amendment at 20 Ill. Reg. 13381, effective October 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 13668, effective October 8, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3156, effective February 28, 1997; amended at 21 Ill. Reg. 7733, effective June 4, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; emergency amendment at 22 Ill. Reg. 1954, effective January 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 5502, effective March 4, 1998; amended at 22 Ill. Reg. 7969, effective May 15, 1998; emergency amendment at 22 Ill. Reg. 10660, effective June 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12160, effective July 1, 1998, for a maximum of 150 days.

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

Section 121.105 State Food Program

Effective January 1, 1998, through June--397--1998, individuals who are ineligible for the Food Stamp Program solely on the basis that they do not meet citizenship requirements contained in Section 121.20 may qualify for the State Food Program.

a) Individuals must meet the citizenship requirements to qualify for a cash assistance program of the Department of Human Services, must have entered the U.S. prior to 8/22/96, and must be either under age 18, or age 65 or older, or disabled (including blind). Disabled individuals must receive Supplemental Security Income or must apply for Supplemental Security Income and be found disabled by the Department of Human Services to be considered disabled.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

b) Individuals meet the financial eligibility requirements of the program in the following ways:

1) Individuals automatically qualify if they receive cash assistance from the Department of Human Services, Supplemental Security Income, or are excluded members of an active food stamp household.

2) Individuals may qualify if they meet the gross income and asset standards.

A) The gross income standard is \$514 per month.

B) The asset limit is \$2,000.

i) One motor vehicle is exempt regardless of value if it is necessary for employment; or needed for transportation for medical treatment of a specific or regular medical problem; or modified for operation by or transportation of a handicapped person; or needed to provide transportation for essential daily activities because of climate, terrain, remoteness, or similar factors.

ii) If the individual's vehicle is not exempt due to one of the above factors, then one vehicle, with a current fair market value of no more than \$4,500, will be exempt. Any excess fair market value above \$4,500 shall be applied to the asset limit.

c) If the individual is elderly, disabled or blind, the monthly benefit amount is \$43 per person.

d) If the individual is under age 18, the monthly benefit amount is \$80 per person.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. effective July 1, 1998, for a maximum of 150 days)

12187

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Grants

2) Code Citation: 59 Ill. Adm. Code: 103

3) Section Numbers: 103.120
Emergency Action: Amendment

4) Statutory Authority: Implementing Sections 15, 34 and 34.1 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15, 34 and 34.1] and the Community Services Act [405 ILCS 30] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5].

5) Effective Date of Amendments: June 24, 1998

6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable.

7) Date filed in Agency's Principal Office: June 24, 1998

8) Reason for Emergency: This amendment is needed to provide uniform requirements to providers for cost reporting and audit requirements as a result of the merger of several State agencies (DPA, DORS, DMHDD, DASA, DPH and DCFS) into the Department of Human Services. This rule will avoid jeopardizing the expenditure of public funds and solidify the Departments relationship with service providers thereby curtailing any negative impact on delivery of services of DHS clients because of the merger of the legacy agencies into the Department.

9) A Complete Description of the Subject and Issues Involved: The Department of Human Services is consolidating all Audit Requirements into 89 Ill. Adm. Code 507. This Section is being amended to reflect this consolidation.

10) Are there any other amendments pending on this Part? No

11) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

12) Information and questions regarding this amendment shall be directed to:

Ms. Susan Weir, Bureau Chief
Bureau Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762

DEPARTMENT OF HUMAN SERVICES
NOTICE OF EMERGENCY AMENDMENTS
TITLE 59: MENTAL HEALTH
CHAPTER I: DEPARTMENT OF HUMAN SERVICES
PART 103
GRANTS
SUBPART A: SYSTEM DESIGN

Section	Purpose
103.10	Purpose
103.11	Definitions
103.15	Incorporation by reference
103.20	Geographic service area
103.25	Agency governance
103.30	Conflict of interest
103.40	Community operation of programs (Repealed)
103.50	General program requirements
103.60	Fiscal management
103.65	Programs eligible for grants
103.70	Special organizational structures
103.80	Monitoring and evaluation

SUBPART B: OPERATIONAL PROCEDURES

Section	Purpose
103.90	Fiscal requirements
103.95	Grant negotiation process
103.100	Accounting requirements
103.110	Allowable/non-allowable expenses
103.120	Audits
EMERGENCY	
103.130	Department review and hearing process
103.140	Budget application (Repealed)
103.150	Agency plan
103.160	Grant agreement and addenda
103.165	Accreditation
103.170	Agency plan compliance
103.180	Prerequisites for disbursement of funds
103.190	Interruption of disbursement and grant cancellation
103.200	Revenue/expense reports (Repealed)
103.210	Reallocation and lapsed funds

AUTHORITY: Implementing Sections 15, 34 and 34.1 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15, 34 and 34.1] and the Community Services Act [405 ILCS 30] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5].

DEPARTMENT OF HUMAN SERVICES
NOTICE OF EMERGENCY AMENDMENTS
Telephone number: (217) 785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

SOURCE: Emergency rule adopted and codified at 6 Ill. Reg. 9361, effective July 21, 1982, for a maximum of 150 days; emergency expired December 19, 1982; adopted at 7 Ill. Reg. 1788, effective February 2, 1983; amended at 7 Ill. Reg. 9304, effective July 27, 1983; amended at 10 Ill. Reg. 10572, effective June 1, 1986; amended at 10 Ill. Reg. 10568, effective September 1, 1986; emergency amendment at 16 Ill. Reg. 2643, effective February 1, 1992, for a maximum of 150 days; emergency expired on June 30, 1992; amended at 17 Ill. Reg. 10282, effective July 1, 1993; amended at 21 Ill. Reg. 8282, effective June 25, 1997; recodified from the Department of Mental Health and Developmental Disabilities to the Department of Human Services at 21 Ill. Reg. 9321; emergency amendment at 22 Ill. Reg. 12175, effective June 24, 1998, for a maximum of 150 days.

SUBPART B: OPERATIONAL PROCEDURES

Section 103.120 Audits

EMERGENCY

- a) Each agency receiving a grant from the Department shall have an annual independent audit as of the close of its fiscal year. This audit shall be performed in accordance with Section 89 Ill. Adm. Code 507. generally accepted auditing standards (GAAS) appropriate for the agency as promulgated by the American Institute of Certified Public Accountants and for qualifying grantees or subgrantees of federal financial assistance with the federal Office of Management and Budget (OMB) Circular A-133. Audits of Institutions of Higher Education and Other Nonprofit Institutions, or Circular A-129, Audits of State and Local Governments, as applicable. Such an audit shall be conducted by an independent certified public accountant (CPA) registered by the State of Illinois. The resultant audit report shall contain the applicable basic financial statements, including the balance sheet, statement of support, revenue, expenses and changes in fund balances, and statement of functional expenses. The report may also include other statements required by agency management such as the statement of cash flows. The report shall also contain the CPA's opinion regarding the financial statements, taken as a whole, or an assertion to the effect that an opinion cannot be expressed. If the CPA expresses a qualified opinion, a disclaimer of opinion, or an adverse opinion, the reason shall be stated. A report will not be acceptable if the CPA's opinion is qualified or denied because the agency placed an unnecessary limitation on the scope of the audit.
- b) The audit report shall include the following supplemental financial information: For those agencies with a fiscal year which ends on a date other than June 30, the supplemental information shall be for the 12 months ending on June 30 preceding the close of their fiscal year.
- 1) Schedule of expenses by program

- A) This schedule shall include all expenses (direct and allocated) for the agency as a whole, for those programs as

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

a group which were not funded by Department grants, and for each individual program which was funded by Department grants. At a minimum, such expenses shall be categorized as follows:

- i) Employees' salaries and wages;
- ii) Employees' fringe benefits;
- iii) Individuals' salaries, wages and fringe benefits;
- iv) Consultants;
- v) Consumable supplies;
- vi) Occupancy;
- vii) Local transportation;
- viii) Specific assistance to individuals;
- ix) Non-capitalized equipment;
- x) Lease/rent;
- xi) Depreciation;
- xii) Interest; and
- xiii) Miscellaneous.

- B) In addition, costs of production (which include individuals' salaries, wages and fringe benefits, plus materials costs) should be shown as a notation for any vocational development or similar programs which produce a salable product.
- C) Expenses by category and in total shall agree with expenses in the audited financial statements, unless the agency's fiscal year ends on a date other than June 30. A reconciliation or explanation shall be provided for any differences.

- B) The CPA shall clearly state his or her position on this schedule and the responsibility assumed, if any. The CPA may extend his or her opinion on the basic financial statements to include this supplemental schedule, or may express a separate opinion on this schedule, or may state that he or she assumes no responsibility and does not express an opinion thereon.

2) Schedule of revenue by source and by program

- A) This schedule shall be in the same format as the revenue section for the Department's agency plan for the operating fund, projected revenue and expense. It shall include all revenue in a total column and show program earnings and restricted revenues by Department-funded programs. Unrestricted revenues need not be allocated to programs.
- B) Revenues by source and in total shall agree with revenue in the audited financial statements, unless the agency's fiscal year ends on a date other than June 30. A reconciliation or explanation shall be provided for any differences.
- C) The same requirement stated in subsection (b)(1)(C) of this section shall be applicable to this schedule.

3) Audit report filing requirements

- A) The independent audit report, including the report on

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

internal controls when applicable and any special reports and/or financial statements required by federal OMB Circulars A-120 or A-133 for qualifying recipients or subrecipients of federal funds shall be submitted within 120 days after the end of the agency's fiscal year. Four copies of any reports prepared in accordance with federal OMB Circular A-120 or A-133 and two copies of all other documents herein required shall be filed with the Department's Office of Internal Audits.

- B) A request for an extension of time to file an independent audit report shall be submitted to the Department's Chief Auditor in writing. Such a request shall include justification. The Chief Auditor shall respond in writing to each such request within 14 days after its receipt by the Department's Office of Internal Audits.
- C) A request for exception to the audit requirements prescribed in this Section shall be submitted to the Department's Associate Director for the Division of Administrative Services. Such requests shall be approved only when convincingly justified. The Associate Director for the Division of Administrative Services shall respond in writing to each such request within 14 days after its receipt by the Division of Administrative Services.

- B) Failure to meet these audit requirements shall result in the suspension of funding.

- C) Requests by agencies for confirmation of payments made by the Department shall be directed to the Department.

- D) In addition to the required annual independent audits conducted by CPAs, audits of agencies shall be conducted on site by the Department's Office of Internal Audits as described in subsections (d)(1) through (6) of this Section.

- 1) The Department's Chief Auditor shall make all necessary audit arrangements.

- 2) Assignments for compliance audits and operational reviews shall be based on:

- A) A Department approved audit plan to provide ongoing audit coverage of grantee agencies;

- B) A random sampling of agencies with certain characteristics such as those receiving grants in excess of specified amounts or those participating in new programs;

- C) Requests by Department management for targeted reviews reasonably based on suspected fiscal problems or deficiencies. The reasons for suspected fiscal problems or deficiencies shall be detailed in writing to the agency.

- B) Requests by agency management for special audits or targeted reviews.

- 3) Scope of audits

- A) The audits shall involve verification of compliance with any

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- B) The audits may also involve a review of any aspect of the agency's operation which might affect its ability to perform in accordance with the grant agreement including but not limited to the agency's general financial conditions and its internal administrative and accounting controls.

- 4) Explanation of audit findings

- A) The Chief Auditor shall arrange for an explanatory meeting with the agency after conclusion of the audit at a mutually agreed-on date. The purpose of this meeting shall be to deliver the audit report draft to the agency to explain its development and format to present and explain the audit findings and recommendations and to attempt to reach agreement on the accuracy of the proposed audit findings. At this meeting a date shall be set for the agency to submit a preliminary written response to the audit report no more than 30 days following the explanatory meeting and a second date set for an exit conference to be held no more than 45 days following the explanatory meeting.

- B) If the agency determines that an exit conference is unnecessary, it shall communicate this in writing to the Chief Auditor at least 10 days prior to the scheduled exit conference date; otherwise, the exit conference shall be held. The purposes of this exit conference are:

- 1) For the agency to disclose to the auditors any possible errors or incorrect conclusions in the audit report draft. The agency shall bring to this conference any documentation that will assist in substantiating its contention of inaccuracies in the report draft.

- 2) To serve as the informal hearing required by Section 7 of the Illinois Grant Funds Recovery Act (30 ILCS 705/7).

- C) If an exit conference is held and results in material changes, the Chief Auditor shall incorporate any such changes into the audit report draft and within 20 days after the exit conference shall send a revised audit report draft to the agency. The agency shall, within 30 days after the date of the transmittal letter, deliver its final written response to the revised audit report draft for inclusion in the final audit report. If the agency wishes to have its preliminary response as provided for in subsection (d)(4)(A) of this Section used as its final response, it shall send a letter to the Chief Auditor so stating within 30 days after the date of the transmittal letter. If the agency's final response is not received by the Chief Auditor within 30 days, he or she shall recommend to the Secretary that the agency's grant be suspended in accordance with

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Section 109-190(e)(3):

B) After incorporating the agency's response, and not later than 30 days after receipt of it, the Chief Auditor shall issue the final audit report to the provider, and send copies to the head of the agency's governing body and to Department managers.

5) Resolution of final audit reports

The Chief Auditor shall determine if the agency's response to the final audit report is acceptable on all matters except for the recovery of grant funds.

A) The Chief Auditor shall include his or her comments relating to the facts as stated in the agency's response, if appropriate.

B) Any recipient of the final audit report who wishes to comment on the audit findings and agency responses shall communicate those comments to the Chief Auditor within 30 days after the date of the letter transmitting the final audit report.

C) Within 45 days after the date of the letter transmitting the final audit report, the Chief Auditor shall advise the agency of the Department's position on the audit findings, recommendations, and agency responses, sending copies to all recipients of the final audit report.

B) Approximately 100 days after the date of the agency's letter of response to the final audit report, as provided for in subsection (d)(4)(c) of this Section, the Office of Internal Audits shall contact the agency and make arrangements to revisit the agency to review the implementation status of the audit recommendations, the results of this review shall be communicated in writing to all recipients of the final audit report.

6) Recovery of grant funds

If there is evidence in support of the apparent need for recovery of grant funds in accordance with the Illinois Grant Funds Recovery Act, the Chief Auditor shall include that finding as Finding A in the final audit report, preceding any procedural findings and recommendations. Such a finding shall be adequately explained to permit the agency and Department management to understand its development and the facts which led to the conclusion that there may have been an overpayment of grant funds.

A) The Associate Director for the Division of Administrative Services shall, within 35 days after the date of the Chief Auditor's position letter provided in subsection (d)(5)(c) of this Section, send the agency's authorized agency representative a notice of the intended recovery, with copies to all recipients of the final audit report.

B) If the agency disagrees with the finding of apparent

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

overpayment and the notice of intended recovery, it shall send a request for a hearing to the Associate Director for the Division of Administrative Services within 35 days after the date of the notice of recovery provided for in subsection (d)(6)(A) of this Section. If the Associate Director for the Division of Administrative Services does not receive a hearing request within the specified time limit, he or she shall proceed to recover the funds.

E) If the agency requests a hearing, such hearing shall be conducted within 45 days after the date of the request letter, in accordance with Section 9 of the Illinois Grant Funds Recovery Act (30 ILCS 705/9). Request for a hearing shall stay further recovery efforts.

E) The Department and the agency shall comply with all timeframes for submitting information for responding to the submitted information for notice requirements and for review or a hearing as outlined in this Section regarding audits. The agency may appeal the Department's failure to respond to timeliness as outlined in this Section.

(Source: Emergency amendment at 22 Ill. Reg. 100.0179, effective June 24, 1998, for a maximum of 150 days)

DEPARTMENT OF HUMAN SERVICES
NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Medicaid Home and Community-Based Services Waiver Program for Individuals with Developmental Disabilities
- 2) Code Citation: 59 Ill. Adm. Code 120
- 3) Section Numbers: Emergency Action:
120.90 Amendment
- 4) Statutory Authority: Implementing Section 3 of the Community Services Act [405 ILCS 30/3] and Sections 5-1 through 5-11 of the Public Aid Code [305 ILCS 5/5-1 through 5-11] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5].

5) Effective Date of Amendments: June 24, 1998

6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not applicable

7) Date filed in Agency's Principal Office: June 24, 1998

8) Reason for Emergency: This amendment is needed to provide uniform requirements to providers for cost reporting and audit requirements as a result of the merger of several State agencies (DPA, DORS, DMHDD, DASA, DPH and DCFS) into the Department of Human Services. This rule will avoid jeopardizing the expenditure of public funds and solidify the Department's relationship with service providers thereby curtailing any negative impact on delivery of services of DHS clients because of the merger of the legacy agencies into the Department.

9) A Complete Description of the Subject and Issues Involved: This Section refers to the audit requirements of the Office of Mental Health and the Office of Developmental Disabilities. These audit requirements have been replaced by 89 Ill. Adm. Code 507. This rulemaking amends this Section to refer to the new DHS audit requirements. This is part of the Department's effort to standardize and consolidate all audit requirements for purchase of service contracts and agreements into 89 Ill. Adm. Code 507.

10) Are there any other amendments pending on this Part? No

11) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

12) Information and questions regarding this rule (amendment, repealer) shall be directed to:

Ms. Susan Weir, Bureau Chief

DEPARTMENT OF HUMAN SERVICES
NOTICE OF EMERGENCY AMENDMENTS

Bureau Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
(217) 785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES
NOTICE OF EMERGENCY AMENDMENTS

TITLE 59: MENTAL HEALTH
CHAPTER I: DEPARTMENT OF HUMAN SERVICES

PART 120
MEDICAID HOME AND COMMUNITY-BASED SERVICES WAIVER PROGRAM FOR
INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

SUBPART A: GENERAL PROVISIONS

- Section
120.10 Definitions
120.20 Purpose
120.25 Incorporation by reference
120.30 Program description (Repealed)
120.40 Service descriptions
120.50 Target population

SUBPART B: SYSTEM COMPONENTS

- Section
120.60 Overview (Repealed)
120.70 Service provider requirements
120.80 Program assurances
120.90 Department audit

SUBPART C: INDIVIDUAL RIGHTS AND RESPONSIBILITIES

- Section
120.100 Overview
120.110 Appeals and fair hearings
120.120 Individual's responsibilities

SUBPART D: OPERATIONAL PROCEDURES

- Section
120.130 Filing an application (Repealed)
120.140 Eligibility criteria
120.150 Eligibility determination
120.160 Individual service/support plan

AUTHORITY: Implementing Section 3 of the Community Services Act [405 ILCS 30/3] and Sections 5-1 through 5-11 of the Public Aid Code [305 ILCS 5/5-1 through 5-11] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5].

SOURCE: Adopted and codified at 7 Ill. Reg. 15630, effective November 9, 1983;

DEPARTMENT OF HUMAN SERVICES
NOTICE OF EMERGENCY AMENDMENTS

emergency amendment at 16 Ill. Reg. 2652, effective February 1, 1992, for a maximum of 150 days; emergency expired June 30, 1992; amended at 18 Ill. Reg. 15600, effective October 5, 1994; amended at 20 Ill. Reg. 4762, effective March 8, 1996; recodified from the Department of Mental Health and Developmental Disabilities to the Department of Human Services at 21 Ill. Reg. 9321; emergency amendment at 22 Ill. Reg. 12185, effective January 24, 1998, for a maximum of 150 days.

SUBPART B: SYSTEM COMPONENTS

Section 120.90 Department audit
EMERGENCY

The Department requirements for service providers annual audits are found in 89 Ill. Adm. Code 507.

- a) The Department shall require each service provider to have an annual audit at the close of its fiscal year. This audit shall be performed by an independent certified public accountant registered by the State of Illinois in accordance with generally accepted auditing standards promulgated by the American Institute of Certified Public Accountants (AICPA) industry audit guide (1974). The report shall contain the basic welfare organizations (1974). The report shall contain the basic financial statements presenting the financial position of the service provider, the results of its operations and changes in fund balances. The report shall also contain the auditor's opinion regarding the financial statements, taken as a whole, or an assertion to the effect that an opinion cannot be expressed. Auditors may qualify, deny or give adverse opinions based on these standards.
- b) Service providers shall complete the interagency Statistical and Financial Report or other cost report designated by the Department and available through the Department's Central Office. Each service provider shall be required to file this report by the date set by the Department, not less than 120 days after the end of the service provider's fiscal year. The report shall be prepared and submitted to the Department along with the service provider's independently certified audit. The revenues and expenses entered on the report shall reconcile with the revenues and expenses as certified in the audit.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 12185, effective June 24, 1998, for a maximum of 150 days)

DEPARTMENT OF HUMAN SERVICES
NOTICE OF EMERGENCY AMENDMENTS

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES
NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Subacute Alcoholism and Substance Abuse Treatment Services

2) Code Citation: 77 Ill. Adm. Code 2090

3) Section Numbers: 2090.30
Emergency Action: Amendment

4) Statutory Authority: Implementing and authorized by Section 5-10 of the Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301/5-10].

5) Effective Date of Amendments: June 24, 1998

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not applicable

7) Date filed in Agency's Principal Office: June 24, 1998

8) Reason for Emergency: This rule is needed to provide uniform requirements to providers for cost reporting and audit requirements as a result of the merger of several State agencies (DPA, DORS, DMHDD, DASA, DPH and DCFS) into the Department of Human Services. This rule will avoid jeopardizing the expenditure of public funds and solidify the Department's relationship with service providers thereby curtailing any negative impact on delivery of services of DHS clients because of the merger of the legacy agencies into the Department.

9) A Complete Description of the Subject and Issues Involved: This Section refers to OASA audit requirements for submission of financial reports. The Section currently refers to 77 Ill. Adm. Code 2030.630. This Section is being repealed. It is being replaced with 89 Ill. Adm. Code 507. This amendment changes the reference.

10) Are there any other amendments pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.

12) Information and questions regarding this amendment shall be directed to:

Ms. Susan Weir, Bureau Chief
Bureau Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
217/785-9772

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER X: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER 9: MEDICAID PROGRAM STANDARDS

PART 2090

SUBACUTE ALCOHOLISM AND SUBSTANCE ABUSE TREATMENT SERVICES

Section	Purpose
2090.10	Definitions
2090.20	Medicaid Certification/Enrollment/Recertification
2090.30	General Requirements
2090.35	Reimbursable Services
2090.40	Quality Improvement
2090.50	Client Records
2090.60	Rate Setting
2090.70	Rate Appeals
2090.80	Inspections
2090.90	Sanctions for Non-Compliance/Audits
2090.100	Inspections (Renumbered)
2090.105	Sanctions for Non-Compliance/Audits (Renumbered)
2090.110	

AUTHORITY: Implementing and authorized by Section 5-10 of the Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301/5-10].

SOURCE: Adopted at 11 Ill. Reg. 2236, effective January 14, 1987; emergency amendments at 12 Ill. Reg. 11273, effective June 30, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 20061, effective November 26, 1988; emergency amendments at 15 Ill. Reg. 10222, effective June 25, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 16662, effective November 1, 1991; amended at 16 Ill. Reg. 11807, effective July 14, 1992; amended at 18 Ill. Reg. 14223, effective September 2, 1994; amended at 19 Ill. Reg. 9411, effective July 1, 1995; amended at 19 Ill. Reg. 10454, effective July 1, 1995; emergency amendment at 20 Ill. Reg. 12489, effective August 30, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 1600, effective January 27, 1997; recodified from the Department of Alcoholism and Substance Abuse to the Department of Human Services at 21 Ill. Reg. 9319; emergency amendment at 21 Ill. Reg. 14087, effective October 9, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 5895, effective March 13, 1998; emergency amendment at 22 Ill. Reg. 12160, effective June 24, 1998, for a maximum of 150 days.

Section 2090.30 Medicaid Certification/Enrollment/Recertification

EMERGENCY

- a) Providers may be certified and recertified by the Department as set forth herein and may enroll for participation in the Illinois Medical Assistance Program as provided in 89 Ill. Adm. Code 148.340(d).

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Application for Medicaid certification and enrollment for alcoholism and other drug abuse treatment service providers may be made by providers who are:

- 1) Currently licensed by the Department under the provisions of 77 Ill. Adm. Code 2060 for alcoholism and other drug abuse treatment services described in 77 Ill. Adm. Code 2060.
 - 2) Currently licensed by the Illinois Department of Public Health as a hospital pursuant to 77 Ill. Adm. Code 250 for the treatment services described in 77 Ill. Adm. Code 250.
- b) Medicaid Certification
- 1) Applications for certification may be obtained in person or by writing to:

Illinois Department of Human Services
160 N. LaSalle, Suite N700
Chicago, Illinois 60601
Attention: Division of Licensing and Monitoring
(312) 814-4718
(312) 419-8432 TDD

or

Illinois Department of Human Services
222 S. College, 2nd Floor
Springfield, Illinois 62704
Attention: Division of Licensing and Monitoring
(217) 782-0685
(217) 524-5103 TDD

- 2) Applicants for new certification will be accepted from programs or parent organizations of such programs which have been licensed as specified in this Section for at least two years. Applicants shall demonstrate two years of experience in providing quality substance abuse services of the kind for which certification is being requested and for the type of population which will be served.
- 3) Applicants shall submit documentation of the following:
 - A) evidence of the need within the community for the type of services to be provided by the program for which certification is sought;
 - B) description of the organization that will be operating the program;
 - C) fiscal solvency of the organization;
 - D) description of the physical facilities to be utilized by the program;
 - E) description of the program and the clientele it serves;
 - F) projection of the total number of Medicaid clients to be served each month, the average length of stay anticipated,

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- and the estimated average per person cost of treatment;
- G) schedule of the specific dates, times and places services will be provided;
- H) number and type of people served during the previous two years in the program for which certification is sought and a description of the people served (demographics, gender, drug of choice, Medicaid eligibility, income level, etc.);
- I) name, address and professional qualifications of the program's Medical Director;
- J) name and qualifications of each individual who will be staffing the program and a description of that individual's responsibilities with respect to the program;
- K) copies of written referral agreements with other social service systems and primary medical care service systems within the applicant's area;
- L) copies of linkage agreements with other substance abuse treatment programs within the applicant's area implemented to assure availability of all levels of care as required in 77 Ill. Adm. Code 2060;
- M) documentation of the program's quality assurance system and utilization review policy as applied to the program's clinical standards which have been used for the previous two years, with a copy of the two most recent utilization review reports; and
- N) measurable outcome evaluation process used for the past two years and statistics on the program's client outcomes.
- 4) Applicants who receive funding from the Department shall submit evidence that they are in compliance with 77 Ill. Adm. Code 2030, Subparts D and G and Sections 2030.710 and 2030.740. Applicants who do not receive funding from the Department shall submit copies of the two previous years' annual audits according to the standards established in 89 Ill. Adm. Code 507 77-~~###~~-Adm-Code 2039-620 and two copies of the statistical and financial data submitted in a format required by the Department in 77 Ill. Adm. Code 2030.710.
- 5) Applications which are missing significant components or which have inadequate information shall be returned to the applicant with a statement specifying the missing or inadequate information. Completed applications may be resubmitted. Applications which are missing less significant components may be held by the Department and the applicant notified in writing of the missing information. The applicant may submit only the missing components. The Department shall hold such incomplete applications no more than 30 calendar days.
- 6) Certification is site-specific and services are to be provided on-site, unless they are provided in accordance with the off-site service provisions as set forth in 77 Ill. Adm. Code 2060.203.
- 7) Sites providing 24 hours of services to clients and having more

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- than 16 beds shall not be certified for Medicaid enrollment for other than residential rehabilitation services.
- 8) In order to receive certification for a site having 16 beds or less, a program must meet the following criteria:
- A) be a free-standing program of 16 or fewer beds; or
- B) be within a larger facility, as a distinct unit of 16 beds or less, which:
- i) is licensed;
- ii) is physically separate from other certified and licensed programs (for example, separated by floors, wings, or other building sections);
- iii) provides a level of care significantly different in clinical content from other certified and licensed programs (for example, adult versus adolescent care, women versus men, hearing impaired versus non-impaired);
- iv) has a separate cost center (budgeting, accounting, etc.);
- v) has separate staffing; and
- vi) has separate operating policies and procedures.
- 9) Prior to certification, the Department shall conduct an on-site inspection.
- 10) Based upon the on-site inspection and a review of the application for certification, the Department will certify the program if the Department determines that:
- A) the applicant has proven that an unmet need for the services exists in the community the program will serve;
- B) the organization operating the program is fiscally sound and responsible;
- C) the program management is experienced in business and in the delivery of substance abuse services;
- D) the program has sufficient written agreements with social, medical and other substance abuse service providers within its area to assure proper linkage of services to an individual;
- E) the program has experience with the Medicaid eligible population it intends to serve;
- F) the program has adequate physical facilities and adequate numbers of professional staff to provide the services;
- G) the program conducts utilization review and has a quality improvement plan; and
- H) the program has a measurable outcome evaluation process in place that provides measurable indicators of improvement by program participants.
- 11) The Department shall notify the applicant in writing of its determination regarding certification.
- A) Approval of Certification/Medicaid Enrollment
- If the Department certifies the program, it shall include

WT Chicago Kent Law School

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

the Department of Public Aid's (IDPA) Medicaid enrollment forms with the letter of certification. The applicant shall submit the completed enrollment forms along with a copy of the letter of certification to IDPA. However, providers who have applied for hospital licensure for the first time and hold a provisional hospital license for treatment services are not eligible to apply for Medicaid enrollment for those treatment services.

B) Denial of Certification

If the Department is not able to certify the program based on the criteria outlined in this Section, the Department shall notify the applicant in writing, describing those deficiencies that will result in a denial of the certification. The applicant has 60 days after receipt of the notice to correct the deficiencies and supply the new information to the Department. If the new information indicates that the program meets the criteria of this Part, the Department shall certify the applicant. If the program continues to fail to meet the requirements of this Part, the Department shall deny the application for certification. If certification is denied, the applicant may appeal the Department's decision and request a hearing pursuant to 77 Ill. Adm. Code 2000 (Rules of Practice and Procedure in Administrative Hearings).

12) Certification shall be effective on the date of approval by the Department and shall remain in effect until the expiration of the provider's license as required in this Section or for three years for any provider not licensed by the Department. Certification is also subject to any sanctions levied under Section 2090.100 of this Part. After the effective date of certification, the provider may deliver services to Medicaid recipients that will be reimbursable after the applicant completes the IDPA Medicaid enrollment procedure.

13) When and if a certified provider is no longer licensed as set forth in this Section (whether voluntarily or involuntarily) the certification shall be null and void. Upon proof by the Department's licensing division that the license is no longer in effect, the Department shall notify the provider by certified mail that certification is null and void.

14) Recertification

A) To be eligible for recertification, providers shall be in compliance with all Sections of 77 Ill. Adm. Code 2060 referenced in this Part.

B) To be eligible for recertification, providers who receive funding from the Department shall be in compliance with 77 Ill. Adm. Code 2030, Subparts D and G and Sections 2030.710 and 2030.740. Providers who do not receive funding from the Department shall submit one copy of all annual audits during

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

the previous certification period, according to the standards established in 89 Ill. Adm. Code 507 77-111-Adm-Code-2030-620-4Audit-Requirements, and two copies of statistical and financial data submitted on forms required by the Department.

C) Providers shall apply for recertification at least 90 days prior to the expiration of the provider license.

D) Providers shall submit a recertification application provided by the Department. In addition, the provider shall submit copies of all utilization review (UR) reports and results of the program's measured outcome evaluations since the date of last inspection.

E) The Department shall review all documents and the results of the last licensure inspection and shall recertify the program if it complies with the requirements of the Alcoholism and Other Drug Abuse and Dependency Act and this Part.

15) Denial of Recertification

If the Department is not able to recertify the program based on its review and inspection, the Department shall notify the applicant in writing, describing those deficiencies that will result in a denial of the recertification. The applicant has 30 days after receipt of the notice to correct the deficiencies and supply the new information to the Department. If the new information indicates that the program meets the criteria of this Part, the Department shall recertify the program. If the program continues to fail to meet the requirements of this Part, the Department shall deny the application for recertification and shall notify the applicant in writing, giving the reasons for the denial. The provider may appeal the Department's decision and request a hearing pursuant to 77 Ill. Adm. Code 2000 (Rules of Practice and Procedure in Administrative Hearings). Certification shall remain in effect pending the Department's final decision on recertification unless the provider is sanctioned pursuant to Section 2090.100 of this Part. When the denial of recertification is final, the provider shall arrange for transfer of all Medicaid clients of the program as appropriate.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 12196, effective June 24, 1998, for a maximum of 150 days)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Temporary Assistance for Needy Families
- 2) Code Citation: 89 Ill. Adm. Code 112
- 3) Section Numbers: Emergency Action:
112.310 New Section
- 4) Statutory Authority: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].
- 5) Effective Date of Amendments: July 1, 1998
- 6) If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which they are to expire: Not applicable

7) Date filed in Agency's Principal Office: July 1, 1998

8) Reason for Emergency: The statutory language governing the child care program states that the program is for employed families and consideration is given to the income of those families to determine eligibility for child care and the amount of the co-pay for child care services. No exceptions exist under the law. Some groups who were receiving child care prior to July 1, 1997, were grandfathered in for one year. That one year expires June 30, 1998. Among those groups are grandparents raising grandchildren.

The Department on Aging and the Task Force on Grandparents Raising Grandchildren in Illinois recently recommended that DHS provide child care for grandparents raising grandchildren. Under the TANF and General Assistance Programs, the Department can offer child care assistance to employed caretakers who are receiving child-only assistance from the Department. To do this, the Department needs a rule change. To provide seamless child care services to these children, this rule needs to be in place on July 1, 1998.

9) A Complete Description of the Subject and Issues: This rulemaking is intended to correct a problem in the Department's child care program unique to situations where the caregiver is not legally responsible for the children and is receiving assistance for the children only in a Temporary Assistance for Needy Families (TANF) grant.

The Department's child care program bases eligibility on the household's income. Once eligible, the amount a client has to pay as a co-payment is a function of the income of the household and the number of children in care. In families that include the parent of the child who is legally responsible for the child, or in families where the non-responsible caregiver is receiving assistance under TANF, this makes sense. However,

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

if the caregiver is not otherwise legally responsible for the children (e.g., an aunt or grandmother), this child care system might be viewed as placing a legal responsibility for child care on the caregiver.

These proposed amendments allow a non-legally responsible relative to receive child care assistance without being responsible for the payment of child care as long as the children are receiving TANF assistance. This child care will be paid as part of the TANF program. All aspects of the Department's child care program will apply except those related to income eligibility and co-payments.

10) Are there any other amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
112.68	Amendment	22 Ill. Reg. 6024
112.78	Amendment	22 Ill. Reg. 4354
112.79	Amendment	22 Ill. Reg. 6024
112.305	Amendment	22 Ill. Reg. 9102

11) Statement of Statewide Policy Objectives (if applicable): This rulemaking will not create or expand a State mandate.

12) Information and questions regarding these amendments shall be directed to:

Mrs. Susan Warrner Weir, Bureau Chief
Bureau Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
Telephone number: (217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES
NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

PART 112
TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

SUBPART A: GENERAL PROVISIONS

Section
112.1 Description of the Assistance Program
112.5 Incorporation by Reference

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section
112.8 Caretaker Relative
112.9 Client Cooperation
112.10 Citizenship
112.20 Residence
112.30 Age
112.40 Relationship
112.50 Living Arrangement
112.52 Social Security Numbers
112.54 Assignment of Medical Support Rights
112.60 Basis of Eligibility
112.61 Death of a Parent (Repealed)
112.62 Incapacity of a Parent (Repealed)
112.63 Continued Absence of a Parent (Repealed)
112.64 Unemployment of the Parent (Repealed)
112.65 Responsibility and Services Plan
112.66 Alcohol and Substance Abuse Treatment
112.67 Restriction in Payment to Households Headed by a Minor Parent
112.68 School Attendance Initiative
112.69 Felons and Violators of Parole or Probation

SUBPART C: TANF EMPLOYMENT AND WORK ACTIVITY REQUIREMENTS

Section
112.70 Employment and Work Activity Requirements
112.71 Individuals Exempt from TANF Employment and Work Activity Requirements
112.72 Participation/Cooperation Requirements
112.73 Adolescent Parent Program (Repealed)
112.74 Responsibility and Services Plan
112.75 Teen Parent Personal Responsibility Plan (Repealed)
112.76 TANF Orientation
112.77 Reconciliation and Fair Hearings

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

112.78 TANF Employment and Work Activities
112.79 Sanctions
112.80 Good Cause for Failure to Comply with TANF Participation Requirements
112.81 Responsible Relative Eligibility for JOBS (Repealed)
112.82 Supportive Services
112.83 Teen Parent Services
112.84 Work Experience Evaluation Project (Repealed)
112.85 Four Year College/Vocational Training Demonstration Project (Repealed)

SUBPART E: PROJECT ADVANCE

Section
112.86 Project Advance (Repealed)
112.87 Project Advance Experimental and Control Groups (Repealed)
112.88 Project Advance Participation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
112.89 Project Advance Cooperation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
112.90 Project Advance Sanctions (Repealed)
112.91 Good Cause for Failure to Comply with Project Advance (Repealed)
112.93 Individuals Exempt From Project Advance (Repealed)
112.95 Project Advance Supportive Services (Repealed)

SUBPART F: EXCHANGE PROGRAM

Section
112.98 Exchange Program (Repealed)

SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

Section
112.100 Unearned Income
112.101 Unearned Income of Stepparent or Parent
112.105 Budgeting Unearned Income
112.106 Budgeting Unearned Income of Applicants Employed On Date of Application And/Or Date Of Decision
112.107 Initial Receipt of Unearned Income
112.108 Termination of Unearned Income
112.110 Exempt Unearned Income
112.115 Education Benefits
112.120 Incentive Allowances
112.125 Unearned Income In-Kind
112.126 Earmarked Income
112.127 Lump-Sum Payments
112.128 Protected Income (Repealed)
112.130 Earned Income
112.131 Earned Income Tax Credit

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

112.132 Budgeting Earned Income
 112.133 Budgeting Earned Income of Employed Applicants
 112.134 Initial Employment
 112.135 Budgeting Earned Income For Contractual Employees
 112.136 Budgeting Earned Income For Non-Contractual School Employees
 112.137 Termination of Employment
 112.138 Transitional Payments (Repealed)
 112.140 Exempt Earned Income
 112.141 Earned Income Exemption
 112.142 Exclusion From Earned Income Exemption
 112.143 Recognized Employment Expenses
 112.144 Income from Work-Study and Training Programs
 112.145 Earned Income From Self-Employment
 112.146 Earned Income From Roomer and Boarder
 112.147 Income From Rental Property
 112.148 Payments from the Illinois Department of Children and Family Services
 112.149 Earned Income In-Kind
 112.150 Assets
 112.151 Exempt Assets
 112.152 Asset Disregards
 112.153 Deferral of Consideration of Assets
 112.154 Property Transfers (Repealed)
 112.155 Income Limit

SUBPART H: PAYMENT AMOUNTS

Section
 112.250 Grant Levels
 112.251 Payment Levels
 112.252 Payment Levels in Group I Counties
 112.253 Payment Levels in Group II Counties
 112.254 Payment Levels in Group III Counties
 112.255 Limitation on Amount of TANF Assistance to Recipients from Other States

SUBPART I: OTHER PROVISIONS

Section
 112.300 Persons Who May Be Included in the Assistance Unit
 112.301 Presumptive Eligibility
 112.302 Reporting Requirements for Clients with Earnings
 112.303 Retrospective Budgeting
 112.304 Budgeting Schedule
 112.305 Strikers
 112.306 Foster Care Program
 112.307 Responsibility of Sponsors of Non-Citizens Entering the County Prior to 8/22/96
 112.308 Responsibility of Sponsors of Non-Citizens Entering the County on or

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

After 8/22/96
 112.309 Institutional Status
 112.310 Child Care for Representative Payees
 EMERGENCY
 112.315 Young Parent Program (Renumbered)
 112.320 Redetermination of Eligibility
 112.330 Extension of Medical Assistance Due to Increased Income from Employment
 112.331 Four Month Extension of Medical Assistance Due to Child Support Collections
 112.332 Extension of Medical Assistance Due to Loss of Earned Income Disregard (Repealed)
 112.340 New Start Payments to Individuals Released from Department of Corrections Facilities (Repealed)

SUBPART J: CHILD CARE

Section
 112.350 Child Care (Repealed)
 112.352 Child Care Eligibility (Repealed)
 112.354 Qualified Provider (Repealed)
 112.356 Notification of Available Services (Repealed)
 112.358 Participant Rights and Responsibilities (Repealed)
 112.362 Additional Service to Secure or Maintain Child Care Arrangements (Repealed)
 112.364 Rates of Payment for Child Care (Repealed)
 112.366 Method of Providing Child Care (Repealed)
 112.370 Non-JOBS Education and Training Program (Repealed)

SUBPART K: TRANSITIONAL CHILD CARE

Section
 112.400 Transitional Child Care Eligibility (Repealed)
 112.404 Duration of Eligibility for Transitional Child Care (Repealed)
 112.406 Loss of Eligibility for Transitional Child Care (Repealed)
 112.408 Qualified Child Care Providers (Repealed)
 112.410 Notification of Available Services (Repealed)
 112.412 Participant Rights and Responsibilities (Repealed)
 112.414 Child Care Overpayments and Recoveries (Repealed)
 112.416 Fees for Service for Transitional Child Care (Repealed)
 112.418 Rates of Payment for Transitional Child Care (Repealed)

AUTHORITY: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4,

DEPARTMENT OF HUMAN SERVICES
NOTICE OF EMERGENCY AMENDMENTS

effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 11, 1983; rules repealed and

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

new rules adopted and codified at 7 Ill. Reg. 2720, effective February 28, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 11284, effective August 26, 1983; amended at 7 Ill. Reg. 13920, effective October 7, 1983; amended at 7 Ill. Reg. 15690, effective November 9, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16105; amended at 7 Ill. Reg. 17344, effective December 21, 1983; amended at 8 Ill. Reg. 213, effective December 27, 1983; emergency amendment at 8 Ill. Reg. 569, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4176, effective March 19, 1984; amended at 8 Ill. Reg. 5207, effective April 9, 1984; amended at 8 Ill. Reg. 7226, effective May 16, 1984; amended at 8 Ill. Reg. 11391, effective June 27, 1984; amended at 8 Ill. Reg. 12333, effective June 29, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17894; peremptory amendment at 8 Ill. Reg. 18127, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 19889, effective October 1, 1984; amended at 8 Ill. Reg. 19983, effective October 3, 1984; emergency amendment at 8 Ill. Reg. 21666, effective October 19, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21666, effective October 23, 1984; amended at 8 Ill. Reg. 25023, effective December 19, 1984; amended at 9 Ill. Reg. 282, effective January 1, 1985; amended at 9 Ill. Reg. 4062, effective March 15, 1985; amended at 9 Ill. Reg. 8155, effective May 17, 1985; emergency amendment at 9 Ill. Reg. 10094, effective June 19, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11317, effective July 5, 1985; amended at 9 Ill. Reg. 12795, effective August 9, 1985; amended at 9 Ill. Reg. 15887, effective October 4, 1985; amended at 9 Ill. Reg. 16277, effective October 11, 1985; amended at 9 Ill. Reg. 17827, effective November 18, 1985; emergency amendment at 10 Ill. Reg. 354, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 1172, effective January 10, 1986; amended at 10 Ill. Reg. 3641, effective January 30, 1986; amended at 10 Ill. Reg. 4885, effective March 7, 1986; amended at 10 Ill. Reg. 8118, effective May 1, 1986; amended at 10 Ill. Reg. 10628, effective June 1, 1986; amended at 10 Ill. Reg. 11017, effective June 6, 1986; Sections 112.78 through 112.86 and 112.88 recodified to 89 Ill. Reg. 12107, effective July 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 12650, effective July 14, 1986; amended at 10 Ill. Reg. 14681, effective August 29, 1986; amended at 10 Ill. Reg. 15101, effective September 5, 1986; amended at 10 Ill. Reg. 15621, effective September 19, 1986; amended at 10 Ill. Reg. 21860, effective December 12, 1986; amended at 11 Ill. Reg. 2280, effective January 16, 1987; amended at 11 Ill. Reg. 3140, effective January 30, 1987; amended at 11 Ill. Reg. 4682, effective March 6, 1987; amended at 11 Ill. Reg. 5223, effective March 11, 1987; amended at 11 Ill. Reg. 6228, effective March 20, 1987; amended at 11 Ill. Reg. 9927, effective May 15, 1987; amended at 11 Ill. Reg. 12003, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 12432, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12908, effective July 30, 1987; emergency amendment at 11 Ill. Reg. 12935, effective August 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13625, effective August 1, 1987; amended at 11 Ill. Reg. 14755, effective August 26, 1987; amended at 11 Ill. Reg. 18679, effective November 1, 1987;

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

emergency amendment at 11 Ill. Reg. 18781, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20114, effective December 4, 1987; Sections 112.90 and 112.95 recodified to Sections 112.52 and 112.54 at 11 Ill. Reg. 20610; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 844, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1929, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 2126, effective January 12, 1988; SUBPARTS C, D and E recodified to SUBPARTS G, H and I at 12 Ill. Reg. 2136; amended at 12 Ill. Reg. 3487, effective January 22, 1988; amended at 12 Ill. Reg. 6159, effective March 18, 1988; amended at 12 Ill. Reg. 6694, effective March 22, 1988; amended at 12 Ill. Reg. 7336, effective May 1, 1988; amended at 12 Ill. Reg. 7673, effective April 20, 1988; amended at 12 Ill. Reg. 9032, effective May 20, 1988; amended at 12 Ill. Reg. 10481, effective June 13, 1988; amended at 12 Ill. Reg. 14172, at 12 Ill. Reg. 10481, effective June 13, 1988; amended at 12 Ill. Reg. 14669, effective September 16, 1988; amended at 13 Ill. Reg. 70, effective January 1, 1989; amended at 13 Ill. Reg. 8567, 111. Reg. 6017, effective April 14, 1989; amended at 13 Ill. Reg. 8567, effective May 22, 1989; amended at 13 Ill. Reg. 16006, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16142, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 705, effective January 1, 1990; amended at 14 Ill. Reg. 3170, effective February 13, 1990; amended at 14 Ill. Reg. 3575, effective February 23, 1990; amended at 14 Ill. Reg. 6306, effective April 16, 1990; amended at 14 Ill. Reg. 10379, effective June 20, 1990; amended at 14 Ill. Reg. 13652, effective August 10, 1990; amended at 14 Ill. Reg. 14140, effective August 17, 1990; amended at 14 Ill. Reg. 16937, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 338, effective January 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 2862, effective February 4, 1991, for a maximum of 150 days; emergency expired July 4, 1991; amended at 15 Ill. Reg. 5275, effective April 1, 1991; amended at 15 Ill. Reg. 5684, effective April 10, 1991; amended at 15 Ill. Reg. 11127, effective July 19, 1991; amended at 15 Ill. Reg. 11447, effective July 25, 1991; amended at 15 Ill. Reg. 14227, effective September 30, 1991; amended at 15 Ill. Reg. 17308, effective November 18, 1991; amended at 16 Ill. Reg. 9972, effective June 15, 1992; amended at 16 Ill. Reg. 11550, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 11652, effective July 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 13629, effective September 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17724, effective November 9, 1992; amended at 16 Ill. Reg. 20147, effective December 14, 1992; amended at 17 Ill. Reg. 357, effective December 24, 1992; amended at 17 Ill. Reg. 813, effective January 15, 1993; amended at 17 Ill. Reg. 2253, effective February 15, 1993; amended at 17 Ill. Reg. 4312, effective March 25, 1993; emergency amendment at 17 Ill. Reg. 6325, effective April 9, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6792, effective April 21, 1993; amended at 17 Ill. Reg. 15017, effective September 3, 1993; amended at 17 Ill. Reg. 19156, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19696, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 5909, effective March 31, 1994; amended at 18 Ill. Reg. 6994, effective April 27, 1994; amended at 18 Ill. Reg. 8703, effective June 1, 1994; amended at 18 Ill. Reg. 10774, effective June 27,

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

1994; amended at 18 Ill. Reg. 12805, effective August 5, 1994; amended at 18 Ill. Reg. 15774, effective October 17, 1994; expedited correction at 19 Ill. Reg. 998, effective October 17, 1994; amended at 19 Ill. Reg. 2845, effective February 24, 1995; amended at 19 Ill. Reg. 5609, effective March 31, 1995; amended at 19 Ill. Reg. 7883, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 10206, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12011, effective August 7, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 12664, effective September 1, 1995; emergency amendment at 19 Ill. Reg. 15244, effective November 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15661, effective November 3, 1995; emergency amendment at 19 Ill. Reg. 15839, effective November 15, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 16295, effective December 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 3538, effective February 15, 1996; amended at 20 Ill. Reg. 5648, effective March 30, 1996; amended at 20 Ill. Reg. 6018, effective April 12, 1996; amended at 20 Ill. Reg. 6498, effective April 29, 1996; amended at 20 Ill. Reg. 7892, effective June 1, 1996; emergency amendment at 20 Ill. Reg. 12499, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14820, effective November 1, 1996; amendment at 20 Ill. Reg. 15983, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 662, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 940, effective January 7, 1997; amended at 21 Ill. Reg. 1366, effective January 15, 1997; amended at 21 Ill. Reg. 2655, effective February 7, 1997; amended at 21 Ill. Reg. 7391, effective May 31, 1997; emergency amendment at 21 Ill. Reg. 8426, effective July 1, 1997, for a maximum of 150 days; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 15597, effective November 26, 1997; emergency amendment at 22 Ill. Reg. 4466, effective February 24, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 10100, effective July 1, 1998, for a maximum of 150 days.

SUBPART I: OTHER PROVISIONS

Section 112.310 Child Care for Representative Payees

A non-legally responsible relative who is acting as a Representative Payee for one or more children in a TANF case and who is not in the TANF assistance unit may receive child care services to enable the non-legally responsible relative to work. For purposes of these child care services, the following provisions of Child Care (89 Ill. Adm. Code 50) apply:

50.110
50.120
50.130
50.220
50.230(a)
50.230(c)
50.230(d)
50.230(e)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

50.240
50.250

(Source: Added by emergency amendment at 22 Ill. Reg. ~~12196~~,
effective July 1, 1998, for a maximum of 150 days)

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

1) Heading of the Part: Standard Procurement2) Code Citation: 44 Ill. Adm. Code 20003) Section Numbers:Proposed Action:

2000.01	New
2000.05	New
2000.08	New
2000.10	New
2000.15	New
2000.25	New
2000.525	New
2000.1005	New
2000.1510	New
2000.1560	New
2000.1570	New
2000.1580	New
2000.2005	New
2000.2010	New
2000.2012	New
2000.2015	New
2000.2020	New
2000.2025	New
2000.2030	New
2000.2035	New
2000.2036	New
2000.2037	New
2000.2038	New
2000.2040	New
2000.2043	New
2000.2044	New
2000.2045	New
2000.2046	New
2000.2047	New
2000.2050	New
2000.2055	New
2000.2060	New
2000.2560	New
2000.2570	New
2000.2800	New
2000.3005	New
2000.4005	New
2000.4505	New
2000.4510	New
2000.4530	New
2000.4535	New
2000.4540	New
2000.4545	New

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

2000.4570 New
 2000.5013 New
 2000.5015 New
 2000.5020 New
 2000.5030 New
 2000.5035 New
 2000.5310 New
 2000.5510 New
 2000.5520 New
 2000.5530 New
 2000.5540 New
 2000.5550 New
 2000.6010 New
 2000.6500 New
 2000.6510 New
 2000.7000 New
 2000.7010 New
 2000.7015 New
 2000.7020 New
 2000.7025 New
 2000.7030 New

4) Statutory Authority: The Illinois Procurement Code [30 ILCS 500] (see Public Act 90-572).

5) Effective Date of Rules: July 1, 1998

6) If this emergency rule it to expire before the end of the 150-day period, please specify the date on which they expire: This rulemaking will expire upon adoption of the rule through the general rulemaking process.

7) Date filed in Agency principal office: June 29, 1998

8) Reason for Emergency: Section 1-30 of the Illinois Procurement Code requires that constitutional officers procure their needs in a manner substantially in accordance with the requirements of the Code, and that such officers promulgate rules no less restrictive than the requirements of the Code to govern procurements.

9) A Complete Description of the Subjects and Issues Involved: This rulemaking prescribes standard procurement rules for the Office of the Secretary of State in accordance with the requirements of the Illinois Procurement Code.

10) Are there any other proposed amendments pending in this Part? No

11) Statement of Statewide Policy Objectives (if applicable): These proposed rules do not affect units of local government.

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

12) Information and questions regarding this rule shall be directed to:

Jack L. Gooding
 Office of the Secretary of State
 124 Howlett Building
 Springfield, IL 62756
 217/782-5328

The full text of the Emergency Rule begins on the next page:

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER XXV: SECRETARY OF STATEPART 2000
STANDARD PROCUREMENT

SUBPART A: GENERAL

Section	Title
2000.01 EMERGENCY	Policy
2000.05 EMERGENCY	Illinois Procurement Code
2000.08 EMERGENCY	Application
2000.10 EMERGENCY	Definition of Terms Used in This Part
2000.15 EMERGENCY	Property Rights
2000.25 EMERGENCY	

SUBPART B: PROCUREMENT RULES

Section	Rules
2000.525 EMERGENCY	

SUBPART C: PROCUREMENT AUTHORITY

Section	Conduct of Procurements
2000.1005 EMERGENCY	

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section	Illinois Procurement Bulletin
2000.1510 EMERGENCY	Supplemental Notice
2000.1560 EMERGENCY	Error in Notice
2000.1570 EMERGENCY	Direct Solicitation
2000.1580 EMERGENCY	

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section	General Provisions
2000.2005 EMERGENCY	Competitive Sealed Bidding
2000.2010 EMERGENCY	Multi-Step Sealed Bidding
2000.2012 EMERGENCY	Competitive Sealed Proposals
2000.2015 EMERGENCY	Small Purchases
2000.2020 EMERGENCY	Sole Economically Feasible Source Procurement
2000.2025 EMERGENCY	Emergency Procurements
2000.2030 EMERGENCY	Competitive Selection Procedures for Professional and Artistic Services
2000.2035 EMERGENCY	Other Methods of Source Selection
2000.2036 EMERGENCY	Tie Bids and Proposals
2000.2037 EMERGENCY	Mistakes
2000.2038 EMERGENCY	Cancellation of Solicitations; Rejection of Bids or Proposals
2000.2040 EMERGENCY	

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section	Suppliers
2000.2043 EMERGENCY	Vendor List/Required Use
2000.2044 EMERGENCY	Prequalification
2000.2045 EMERGENCY	Responsibility
2000.2046 EMERGENCY	

SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

Section	Security Requirements
2000.2047 EMERGENCY	

SUBPART H: SPECIFICATIONS AND SAMPLES

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

Section
2000.2050
EMERGENCY

Specifications and Samples

SUBPART I: CONTRACT TYPE

Section
2000.2055
EMERGENCY

Types of Contracts

SUBPART J: DURATION OF CONTRACTS

Section
2000.2060
EMERGENCY

Duration of Contracts - General

SUBPART K: CONTRACT MATTERS

Section
2000.2560
EMERGENCY
2000.2570
EMERGENCY

Prevailing Wage

Equal Employment Opportunity; Affirmative Action

SUBPART L: CONTRACT PRICING

Section
2000.2800
EMERGENCY

All Costs Included

SUBPART M: CONSTRUCTION AND CONSTRUCTION RELATED PROFESSIONAL SERVICES

Section
2000.3005
EMERGENCY

Construction and Construction Related Professional Services

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section
2000.4005
EMERGENCY

Real Property Leases and Capital Improvement Leases

SUBPART O: PREFERENCES

Section
2000.4505
EMERGENCY
2000.4510

Procurement Preferences

Resident Bidder Preference

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

EMERGENCY

Correctional Industries

2000.4530
EMERGENCY

Sheltered Workshops for the Disabled

2000.4535
EMERGENCY

Gas Mileage

2000.4540
EMERGENCY

Small Business

2000.4545
EMERGENCY

Contracting with Businesses Owned and Controlled by
Minorities, Females and Persons with Disabilities

2000.4570
EMERGENCY

SUBPART P: ETHICS

Section

Conflicts of Interest

2000.5013
EMERGENCY

Negotiations for Future Employment

2000.5015
EMERGENCY

Exemptions

2000.5020
EMERGENCY

Revolving Door

2000.5030
EMERGENCY

Disclosure of Financial Interests and Potential Conflicts of
Interest

2000.5035
EMERGENCY

SUBPART Q: CONCESSIONS

Section

Concessions

2000.5310
EMERGENCY

SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

Section

Complaints Against Vendors

2000.5510
EMERGENCY

Suspension

2000.5520
EMERGENCY

Resolution of Contract Controversies

2000.5530
EMERGENCY

Violation of Law or Rule

2000.5540
EMERGENCY

Protests

2000.5550
EMERGENCY

SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

Section

2000.6010 Supply Management and Dispositions
EMERGENCY

SUBPART T: GOVERNMENTAL JOINT PURCHASING

Section

2000.6500 General
EMERGENCY
2000.6510 No Agency Relationship
EMERGENCY

SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section

2000.7000 Severability
EMERGENCY
2000.7010 Government Furnished Property
EMERGENCY
2000.7015 Inspections
EMERGENCY
2000.7020 Records and Audits
EMERGENCY
2000.7025 Written Determinations
EMERGENCY
2000.7030 No Waiver of Sovereign Immunity
EMERGENCY

AUTHORITY: The Illinois Procurement Code [30 ILCS 500] (see P.A. 90-572).

SOURCE: Emergency Rules adopted at 22 Ill. Reg. 12203, effective July 1, 1998, for a maximum of 150 days.

SUBPART A: GENERAL

Section 2000.01 Title

EMERGENCY

This Part may be cited as the Secretary of State's Procurement Rules.

Section 2000.05 Policy

EMERGENCY

All procurements for the Office of the Secretary of State (SOS) shall be accomplished in the most economical, expeditious and commercially reasonable manner that is in accordance with statute, this Part and other applicable rules.

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

Section 2000.08 Illinois Procurement Code
EMERGENCY

Articles 1, 15, 20, 25, 35, 40, 45, 50 and 53 of the Illinois Procurement Code [30 ILCS 525/Arts. 1, 15, 20, 25, 35, 40, 45, 50 and 53] (the Code) will be referenced in this Part as though applicable to the SOS, and the needs shall be procured in a manner substantially in accordance with those provisions of the Code, except to the extent otherwise provided in this Part. For purposes of this Part, any reference in the Code or this Part to the Chief Procurement Officer (CPO) means the Secretary of State or his/her designee. The Secretary of State may appoint one or more State Purchasing Officers (SPOs).

Section 2000.10 Application
EMERGENCY

- a) The Code and this Part apply to those procurements for which the vendors were first solicited on or after July 1, 1998.
- b) Procurements for which vendors were first solicited on or before June 30, 1998, shall be conducted pursuant to legal requirements in effect at the time of the solicitation. The terms and conditions and the rights and obligations under contracts resulting from such procurements shall not be impaired.
- c) A solicitation occurs on or before June 30, 1998, as follows:
 - 1) When advertising was required in the Official State Newspaper, the first advertisement must run no later than June 30, 1998.
 - 2) When advertising was not required:
 - A) if the procurement was advertised, even though advertising was not required, the first advertisement must have run no later than June 30, 1998;
 - B) if the procurement was by direct solicitation by mail, the solicitation must have been postmarked or placed in the control of a private carrier no later than June 30, 1998;
 - C) if the procurement was by direct solicitation by fax, the fax must show a transmission date no later than June 30, 1998;
 - D) if the procurement was solicited in-person or by telephone, the solicitation must have occurred no later than June 30, 1998, and the State officer or employee who made the solicitation must state in writing when the procurement was discussed and must name the party with whom the discussion took place.
- 3) In all circumstances, the solicitations must be for the procurement of particular needs. A general discussion to determine if there is any interest on the part of a State agency in the supplies or services of a vendor or vendors, or on the part of a vendor or vendors in providing the supplies or services, is not considered a solicitation.
- d) The Code and this Part do not apply to:

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- 1) contracts between the State and its political subdivisions or other governments, or between State governmental bodies except as specifically provided in this Code (for purposes of this subsection (d)(1), "governmental bodies" includes the State universities and their governing boards);
- 2) grants;
- 3) hiring of an individual as employee and not as an independent contractor, whether pursuant to an employment code or policy or by contract directly with that individual;
- 4) collective bargaining contracts;
- 5) purchase of real estate; or
- 6) contracts necessary to prepare for anticipated litigation, enforcement actions, or investigations, provided that the chief legal counsel to the Secretary of State shall give his or her prior approval [30 ILCS 500/1-100]. Anticipated litigation is that which a State agency may prosecute or defend before a court or administrative body and actions necessary to prepare for and conduct the effective legal prosecution or defense of litigation, including, but not limited to, contracting for court reporting and contracting for expert witnesses.

Section 2000.15 Definition of Terms Used in This Part EMERGENCY

As used throughout this Part, terms defined in the Illinois Procurement Code shall have the same meaning as in the Code and as further defined below, and each term listed in this Section shall have the meaning set forth below unless its use clearly requires a different meaning. Terms may be defined in particular Sections for use in that Section.

"Bid" - The response to an Invitation for Bids.

"Bidder" - Any person who submits a bid.

"Brand Name or Equal Specification" - A specification that uses one or more manufacturer's names or catalogue numbers to describe the standard of quality, performance, and other characteristics needed to meet State requirements, and that allows the submission of equivalent products.

"Brand Name Specification" - A specification limited to one or more items by manufacturers' names or catalogue numbers.

"Code" - The Illinois Procurement Code [30 ILCS 500].

"Concession" - The right or a lease to engage in a certain activity for profit on the lessor's premises (e.g., a refreshment or parking concession).

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

"Contract" - A contract may be in written or oral form. The term contract as used in the Code and this Part does not include: supplies or services the terms governing which are established by tariff of the Illinois Commerce Commission or the Federal Communications Commission, bonds issued by or on behalf of any State agency, or contracts, other than for "concessions", that the State agency signs, but has no financial obligation to the other parties.

"Contractor" or "Vendor" - The terms contractor and vendor are used interchangeably for purposes of the Code and this Part.

"Day" - Calendar day. In computing any period of time, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a State holiday, in which event the period shall run to the end of the next business day.

"DCMS" - The Department of Central Management Services.

"Items" - Anything that may be procured under this Code.

"Invitation for Bids" or "IFB" - The process by which a purchasing agency requests information from bidders, including all documents, whether attached or incorporated by reference, used for soliciting bids. [30 ILCS 500/1-15.45]

"Procurement Officer" - The Chief Procurement Officer (CPO) or appropriate State Purchasing Officer (SPO) who conducts the particular procurement, or a designee of either.

"Proposal" - The response to a Request for Proposals.

"Qualified Products List" - An approved list of supplies described by model or catalog numbers that, prior to competitive solicitation, the State has determined will meet the applicable specification requirements.

"Request for Information" or "RFI" - The process by which a purchasing agency request information from offerors for all State contracts for leases of real property or capital improvements.

"Request for Proposals" or "RFP" - The process by which a purchasing agency requests information from offerors, including all documents, whether attached or incorporated by reference, used for soliciting proposals. [30 ILCS 500/1-15.75]

"Responsible Bidder or Offeror" - A person who has the capability in all respects to preform fully the contract requirements and the

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

integrity and reliability that will assure good faith performance.

"Responsive Bidder or Offeror" - A person who has submitted a bid that conforms in all material respects to the invitation for bids. [30 ILCS 500/1-85]

"Service" - The furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports or supplies that are incidental to the required performance. [30 ILCS 500/1-15.90]

"SOS" - The Office of the Secretary of State.

"Specification" - Any description of the physical, functional, or performance characteristics, or of the nature of a supply or service. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply or service item for delivery. Unless the context requires otherwise, the terms "specification" and "purchase description" are used interchangeably throughout this Part.

"Specification for a Common or General Use Item" - A specification that has been developed and approved for repeated use in procurements.

"State" - The Office of the Secretary of State.

"Supplies" - All personal property, including but not limited to equipment, materials, printing, and insurance, and the financing of those supplies. [30 ILCS 500/1-15.110]

"Unsolicited Offer" - Any offer other than one submitted in response to a solicitation.

Section 2000.25 Property Rights EMERGENCY

Receipt of an Invitation for Bids or other procurement document, or submission of any response thereto, or other offer, confers no right to receive an award or contract, nor does it obligate the State in any manner.

SUBPART B: PROCUREMENT RULES

Section 2000.525 Rules EMERGENCY

To the extent practicable, the SOS may avail itself of master, scheduled or open-ended contracts established by DCMS; items available from the Paper and Printing Warehouse; and DCMS contracts for telecommunications equipment, software and services, paper and envelopes, and vehicles and vehicle services.

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

The CPO or SPO may submit purchase requests to DCMS in accordance with rules promulgated by DCMS.

SUBPART C: PROCUREMENT AUTHORITY

Section 2000.1005 Conduct of Procurements EMERGENCY

The Secretary of State or his/her designee shall serve as CPO for purposes of the Code and this Part and may conduct any or all procurements on behalf of the SOS. The CPO may appoint one or more SPOs to conduct procurement in accordance with the terms of the appointment and this Part.

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section 2000.1510 Illinois Procurement Bulletin EMERGENCY

Notice of any procurement action required by the Code to be publicized in the Illinois Procurement Bulletin will be forwarded to DCMS for inclusion in the appropriate volume of the Bulletin in accordance with rules promulgated by DCMS (44 Ill. Adm. Code 1).

Section 2000.1560 Supplemental Notice EMERGENCY

Publication in the Bulletin may be supplemented by publication elsewhere at the discretion of the SOS.

Section 2000.1570 Error in Notice EMERGENCY

When a required publication contains an error, the error may be corrected by a single notice published in the Bulletin.

Section 2000.1580 Direct Solicitation EMERGENCY

In addition to giving notice in the Bulletin, the SOS may directly contact prospective vendors by providing copies of Invitations for Bids, Requests for Proposals, or other procurement information. Direct solicitation may be oral or in writing, but care should be taken to ensure that all vendors solicited in this manner receive the same information as provided to others.

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section 2000.2005 General Provisions EMERGENCY

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- a) Late Bids or Proposals, Late Withdrawals and Late Modifications
- 1) Definition. Any bid or proposal received after the time and date for receipt, or at other than the specified location even if on time, is late. Any withdrawal or modification of a bid or proposal received after the time and date set for opening of bids or proposals is late. If received at other than the specified location, the submission is late.
 - 2) Treatment. No late bid or proposal, late modification, or late withdrawal will be considered unless the Procurement Officer, and not a designee, determines it would have been timely but for the action or inaction of State personnel directly serving the procurement activity (e.g., providing the wrong address).
 - 3) Records. Records shall be made and, in accordance with the State Records Act [5 ILCS 160], kept for each late bid or proposal, late modification, or late withdrawal.
 - 4) Other Submissions. Any other submission that has a time or date deadline shall be treated in the same manner as a late bid.
- b) Extension of Time
- 1) The Procurement Officer may, prior to the date or time for submitting or modifying a bid or proposal, extend the date or time for the convenience of the State.
 - 2) After opening bids or proposals, the Procurement Officer may request bidders or offerors to extend the time during which the State may accept the bids or proposals, provided that, with regard to bids, no other change is permitted.
- c) Electronic and Facsimile Submissions
- 1) The Invitation for Bids (IFB) or Request for Proposals (RFP) may state that electronic and facsimile machine submissions will be considered if they are received at the designated office by the time and date set for receipt. Any required attachments will be submitted as stated in the IFB or RFP.
 - 2) Electronic submissions authorized by specific language in the IFB or RFP will be opened in accordance with electronic security measures in effect at the SOS at the time of opening. Unless the electronic submission procedures provide for a secure receipt, vendor assumes risk of premature disclosure due to submission in unsealed form.
 - 3) Fax submissions authorized by specific language in the IFB or RFP will be placed in a sealed container upon receipt and opened as other submissions. Vendor assumes risk of premature disclosure due to submission in unsealed form.
- d) Intent to Submit
- The Invitation for Bids or the Request for Proposals may require that vendors submit, by a certain time and date, a notice of their intent to submit a bid or proposal in response to the IFB or RFP. Bids and proposals submitted without complying with the notice of intent requirement may be rejected.
- e) Only One Bid or Proposal Received

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- If only one bid or proposal is received, an award may be made to the single bidder or offeror if the Procurement Officer finds that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond, or there is not adequate time for resolicitation. Otherwise:
- 1) new bids or offers may be solicited, including under sole source (Section 2000.2025) or emergency (Section 2000.2030) procedures; or
 - 2) the procurement may be canceled.
- f) Alternate or Multiple Bids or Proposals
- 1) Alternate bids or proposals may be accepted if:
 - A) permitted by the solicitation and in accordance with instructions in the solicitation; or
 - B) only one vendor responded, in which case the alternate submission may be evaluated and treated in accordance with Section 2000.2025 (Sole Source Procurement) of this Part; or
 - C) the low bidder, who has met all requirements of the solicitation, has provided a lower cost alternative that meets all of the material requirements of the specifications.
 - 2) Multiple bids or proposals may be accepted if:
 - A) permitted by the solicitation and submitted in accordance with instructions in the solicitation; or
 - B) only one vendor responded, then, one or more of the submissions may be evaluated, provided that, in the case of bids, only the lowest cost bid meeting specifications may be considered.
 - 3) If a vendor clearly indicates a primary submission among alternate or multiple bids or proposals, then that primary submission shall be considered for award as though it were the only bid or proposal submitted by the vendor.
- g) Multiple Items
- An Invitation for Bids or Request for Proposals may call for pricing of multiple items of similar or related type with award based on individual line item, group total of certain items, or grand total of all items.
- h) "All or None" Bids or Proposals
- All or none bids or proposals may be accepted if the evaluation shows an all or none award to be the lowest cost or best value of those submitted.
- i) Conditioning Bids or Proposals Upon Other Awards
- Any bid or proposal that is conditioned upon receiving award of the particular contract being solicited and one or more other State contracts shall:
- 1) be rejected unless the vendor removes the condition; or
 - 2) be evaluated and award made to that vendor if the vendor is also independently evaluated as the winner of the other IFBs or RFPs provided the agency need not delay procurement actions to

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

accommodate the vendor's all or none condition.

j) Unsolicited Offers

1) Processing of Unsolicited Offers. The Procurement Officer may consider unsolicited offers and shall have final authority with respect to evaluation, acceptance and rejection of such unsolicited offer.

2) Conditions for Consideration. An unsolicited offer must be in writing and must be sufficiently detailed to allow a judgment to be made concerning the potential utility of the offer to the State.

3) Award. An award may not be made based on an unsolicited offer in place of the notice and competition requirements of the Code and this Part except if that unsolicited offer meets the requirements for a small (Section 2000.2020), sole source (Section 2000.2025), or emergency (Section 2000.2030) procurement.

k) Clarification of Bids and Proposals

The Procurement Officer may request that a vendor clarify its bid or proposal as a part of the evaluation process. A vendor shall not be allowed to materially change its bid or proposal in response to a request for clarification. A clarification is not an opportunity to make changes or for submission of best and finals as authorized elsewhere in this Part.

l) Extension of Time on Indefinite Quantity Contracts

The time of performance of an indefinite quantity contract may be extended upon agreement of the parties, provided the extension is for 90 days or less and the Procurement Officer determines in writing that it is not practical to award another contract at the time of such extension.

m) Increase in Quantity on Definite Quantity Contracts

1) The quantity that may be ordered from a definite quantity contract without additional notice and competition may be increased by up to 20% provided the Procurement Officer determines that separate bidding for the additional quantity is not likely to achieve lower pricing. A particular procurement may specify a different percentage.

2) The quantity may be increased by any percentage provided the dollar value of the increase does not exceed the applicable small purchase (Section 2000.2020) threshold.

n) Subsequent Purchase Request

If, within 30 days after making an award to a particular vendor pursuant to a competitive sealed bid on behalf of the SOS, the SPO receives a purchase request for the same item and for the same or lesser quantity, the SPO may contract with that vendor on the same terms and conditions, including price, without additional notice and competition, if such contract is acceptable to the vendor.

o) Assignment, Novation or Change of Name

1) Assignment. No State contract is transferable, or otherwise assignable, without the written consent of the Procurement

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

Officer, provided, however, that a vendor may assign money receivable under a contract after due notice to the State. Assignment may require the execution of a contract with the assignee and in such cases the assignee must meet all requirements for contracting with the State.

2) Recognition of a Successor in Interest; Novation. When in the best interest of the State, a successor in interest may be recognized in a novation agreement in which the transferor and the transferee agree that:

- A) the transferee assumes all of the transferor's obligations;
- B) the transferee meets all requirements for contracting with the State;
- C) the transferor waives all rights under the contract as against the State; and
- D) unless the transferor guarantees performance of the contract by the transferee, the transferee shall, if required by the State, furnish a satisfactory performance bond.

3) Change of Name. A vendor may submit a written request to change the name in which it holds a contract with the State. The name change shall not alter any of the terms and conditions of the contract or the obligations of the vendor.

4) Reports. All change of name or novation agreements under this subsection (o) shall be reported to the CPO of DCMS within 30 days after the date the agreement becomes effective so that the bid list may be updated.

p) Contracting for Installment Purchase Payments, Including Interest. Contracts may provide for installment purchase payments, including interest charges, over a period of time. The interest rate may not exceed that established by law, including the Bond Authorization Act [30 ILCS 305].

q) Use of Source Selection Method that is Not Required. If SOS uses a method of source selection that it is not, by law, required to use (e.g., use of a competitive sealed bid for a small purchase), the SOS is not bound to strict compliance with the Code and rules governing the method of source selection used.

r) Vendor Signature

A bid or proposal submitted unsigned will be evaluated if the vendor submits a written signature acceptable to the Procurement Officer within the time specified by that officer.

s) Stringing or planning procurements to avoid use of competitive procedures (stringing) is prohibited.

t) Confidential Data

Vendors must clearly identify any information that is exempt from the disclosure requirement of the Illinois Freedom of Information Act [5 ILCS 140] and must request special handling of that material.

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

EMERGENCY

- a) Application
Competitive sealed bidding is the required method of source selection except as allowed by the Code and this Part. The provisions of this Section apply to every procurement required to be conducted by competitive sealed bidding.
- b) The Invitation for Bids
 - 1) Use. The Invitation for Bids is used to initiate a competitive sealed bid procurement.
 - 2) Content. The Invitation for Bids shall include, at a minimum, the following:
 - A) instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the office to which bids are to be delivered, and the maximum time for bid acceptance by the State;
 - B) the purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description; and
 - C) the contract terms and conditions, including warranty and bonding or other security requirements, as applicable.
 - 3) Incorporation by Reference. The Invitation for Bids may incorporate documents by reference provided that the Invitation for Bids specifies where such documents can be obtained.
- c) Bidding Time
Bidding time is the period of time between the date of notice or distribution of the Invitation for Bids and the time and date set for receipt of bids. In each case, bidding time will be set to provide bidders a reasonable time to prepare their bids. A minimum of 14 days shall be provided unless a shorter time is authorized by the Code or this Part.
- d) Bidder Submissions
 - 1) Bid Form. The Invitation for Bids may include a form or format for submitting bids. If a form or format is specified, vendor shall submit bids as instructed.
 - 2) Bid Samples and Descriptive Literature
 - A) Bid samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the items bid.
 - B) Unsolicited bid samples or descriptive literature are submitted at the bidder's risk, may not be examined or tested, will not be deemed to vary any of the provisions of the Invitation for Bids, and may not be utilized by the vendor to contest a decision or understanding with the State.
- e) Public Notice

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- 1) Publication. Every procurement for supplies and services in excess of \$10,000 that must be procured using an Invitation for Bids shall be published in the Illinois Procurement Bulletin (see Section 2000.1510).
- 2) Public Availability. A copy of the Invitation for Bids shall be made available for public inspection.
- 3) Distribution. Invitations for Bids or Notices of the Availability of Invitations for Bids may be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing competition. Notices of Availability shall, at a minimum, indicate where Invitations for Bids may be obtained; generally describe what is needed; and indicate the due date for bids. Where appropriate, the Procurement Officer may require payment of a fee or a deposit for supplying the Invitation for Bids.
- f) Pre-Bid Conference
A pre-bid conference may be conducted to enhance understanding of the procurement requirements. The pre-bid conference shall be announced as a part of the Invitation for Bids notice. The conference may be designated as "attendance mandatory" or "attendance optional". The conference should be held long enough after the Invitation for Bids has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids. Nothing stated at the pre-bid conference shall change the Invitation for Bids unless a change is made by written modification to the Invitation for Bids. Amendments shall be supplied to all those prospective bidders known to have received an Invitation for Bids. If the conference is mandatory, the amendment shall be supplied to attendees only.
- g) Amendments to Invitations for Bids
 - 1) Form. Amendments to Invitations for Bids shall be clearly identified and shall reference the portion of the IFB it amends.
 - 2) Distribution. Amendments shall be made available to all prospective bidders known to have received an Invitation for Bids.
 - 3) Timeliness. Amendments shall be made available within a reasonable time to allow prospective bidders to consider them in preparing their bids. If the time and date set for receipt of bids will not permit such preparation, the amendment shall extend the response time. If necessary, the response time may be extended by fax or telephone and confirmed in the amendment.
- h) Pre-Opening Modification or Withdrawal of Bids
 - 1) Procedure. Bids may be modified or withdrawn by written notice received in the office designated in the Invitation for Bids prior to the time and date set for bid opening.
 - 2) Disposition of Bid Security. If a bid is withdrawn in accordance with this Section, the bid security, if any, shall be returned to the bidder.

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

3) Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.

1) Receipt, Opening and Recording of Bids
i) Receipt. Upon its receipt, each bid and modification shall be time-stamped but not opened and shall be stored in a secure place until the time and date set for bid opening. If a bid is opened in error, the file shall so state.

2) Opening and Recording

A) Bids and modifications shall be opened publicly at the time, date, and place designated in the Invitation for Bids. Opening shall be witnessed by a State employee or any other person present, but the person opening bids shall not serve as witness. The name of each bidder, the bid price, and such other information as is deemed appropriate by the Procurement Officer, shall be recorded and the name of each bidder read aloud or otherwise made available. The name of the witness shall also be recorded at the opening.

B) The winning bid shall be available for public inspection after award, along with the record of each unsuccessful bid.

3) Confidential Data. The SPO shall examine the bids to determine the validity of any requests for nondisclosure of trade secrets and other proprietary data identified in writing. If the parties do not agree as to the disclosure of data or other information, the bid shall be rejected as nonresponsive.

j) Bid Evaluation and Award

1) General. The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids, except as permitted in the Code and this Part. The Invitation for Bids shall set forth the requirements and criteria that will be used to determine the lowest responsive bidder. No bid shall be evaluated for any requirements or criteria that are not disclosed in the Invitation for Bids.

2) Responsibility. Responsibility of prospective vendors is covered by Section 2000.2046 (Responsibility) of this Part.

3) Responsiveness. A bid must conform in all material respects to the Invitation for Bids.

A) Product or Service Acceptability. The Invitation for Bids shall set forth any evaluation criteria to be used in determining product or service acceptability. It may require the submission of bid samples, descriptive literature, technical data, references, licenses, or other information or material. It may also provide for accomplishing any of the following prior to award:

- 1) inspection or testing of a product or service prior to award for such characteristics as quality or workmanship;

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- ii) examination of such elements as appearance, finish, taste, or feel;
- iii) other examinations to determine whether it conforms with any other purchase description requirements.

B) The acceptability evaluation is not conducted for the purpose of determining whether one bidder's product or service capability is superior to another, but only to determine that a bidder's offering is acceptable as set forth in the Invitation for Bids. Any bidder's offering that does not meet the acceptability requirements shall be rejected.

4) Determination of Lowest Bidder. Following determination of product or service acceptability as set forth in this subsection (jj), bids will be evaluated to determine which bidder offers the lowest cost to the State in accordance with the evaluation criteria set forth in the Invitation for Bids. Only objectively measurable criteria that are set forth in the Invitation for Bids shall be applied in determining the lowest bidder. Examples of such criteria include, but are not limited to, transportation cost and ownership or life-cycle cost formulas. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible such evaluation factors shall be reasonable estimates based upon information the State has available concerning future use and shall provide for the equitable treatment of all bids. Pricing for optional supplies or services, or for renewal terms, may be considered, particularly when the pricing for such items or terms is unbalanced when compared to other pricing in the bid.

5) Price Negotiation. Negotiations are permitted with the low bidder to obtain a lower price for the item bid.

k) Documentation of Award

Following award, a record showing the successful bidder shall be made a part of the procurement file.

1) Award to Other Than Low Bidder

1) The Procurement Officer, but not a designee, may award to other than the lowest responsible and responsive bidder upon a written determination that award to another bidder is in the State's best interest. The name of the bidder selected, pricing, and the reasons for selecting this bidder instead of the low bidder must be published in the Bulletin.

2) This action may be appropriate when the difference in quality or speed of delivery is so great as compared to the difference in price, and considering the needs of the agency, that a best value award is justified. However, if the difference in price is significant, the Procurement Officer may not utilize this provision.

m) Publicizing Award

The successful bidder shall be notified of award and such notification

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

may be in the form of a letter, purchase order or other clear communication. In procurements over the small purchase limit set in Section 2000.2020 (Small Purchases) of this Part, notice of award shall be published in the Bulletin.

Section 2000.2012 Multi-Step Sealed Bidding EMERGENCY

- a) Definition. Multi-step sealed bidding is a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the State, and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase have their price bids considered.
- b) Conditions for Use. The multi-step sealed bidding method may be used when it is not practical to prepare initially a definitive purchase description that will be suitable to permit an award based on price. Multi-step sealed bidding may be used when it is considered desirable:
 - 1) to invite and evaluate possible diverse technical offers to determine their acceptability to fulfill the purchase description requirements; and
 - 2) to conduct discussions for the purposes of facilitating understanding of the technical offer and purchase description requirements and, where appropriate, obtain supplemental information, permit amendments of technical offers, or amend the purchase description.
- c) Pre-Bid Conference in Multi-Step Sealed Bidding. Prior to the submission or evaluation of unpriced technical offers, a pre-bid conference as contemplated by Section 2000.2010(f) (Pre-Bid Conference) may be conducted by the Procurement Officer.
- d) Procedure for Phase One of Multi-Step Sealed Bidding
 - 1) Form. Multi-step sealed bidding shall be initiated by the issuance of an Invitation for Bids in the form required by Section 2000.2010 (Competitive Sealed Bidding), except as hereinafter provided. In addition to the requirements set forth in Section 2000.2010, the multi-step Invitation for Bids shall state:
 - A) that unpriced technical offers are requested;
 - B) whether priced bids are to be submitted at the same time as unpriced technical offers; if they are, such priced bids shall be submitted in a separate sealed envelope;
 - C) that it is a multi-step sealed bid procurement, and priced bids will be considered only in the second phase and only from those bidders whose unpriced technical offers are found acceptable in the first phase;
 - D) the criteria to be used in the evaluation of the unpriced technical offers;
 - E) that the Procurement Officer may conduct oral or written

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- F) discussions of the unpriced technical offers; that the item being procured shall be furnished generally in accordance with the bidder's technical offer as found to be finally acceptable and shall meet the requirements of the Invitation for Bids.

- 2) Amendments to the Invitation for Bids. After receipt of unpriced technical offers, amendments to the Invitation for Bids shall be distributed only to bidders who submitted unpriced technical offers, and they shall be permitted to submit new unpriced technical offers or to amend those submitted. If, in the opinion of the Procurement Officer, a contemplated amendment will significantly change the nature of the procurement, the Invitation for Bids may be canceled in accordance with Section 2000.2040 (Cancellation of Solicitation; Rejection of Bids or Proposals) of this Part and a new Invitation for Bids issued.
- 3) Receipt and Handling of Unpriced Technical Offers. Unpriced technical offers submitted by bidders shall be opened in the presence of at least one witness. Such offers shall not be disclosed to unauthorized persons.
- 4) Evaluation of Unpriced Technical Offers. The unpriced technical offers submitted by bidders shall be evaluated solely in accordance with the criteria set forth in the Invitation for Bids. The unpriced technical offers shall be categorized as:
 - A) acceptable;
 - B) potentially acceptable, that is, reasonably susceptible of being made acceptable; or
 - C) unacceptable, in which case the Procurement Officer shall record in writing the basis for finding an offer unacceptable, notify the vendor and make it part of the procurement file.
- 5) The Procurement Officer may initiate phase two of the procedure if, in the Procurement Officer's opinion, there are sufficient acceptable unpriced technical offers to assure effective price competition in the second phase without technical discussions. If the Procurement Officer finds discussion of the technical offers is necessary, the Procurement Officer shall commence discussions of the unpriced technical proposals.
- 6) Discussion of Unpriced Technical Offers. The Procurement Officer may conduct discussions with any vendor who submits an acceptable or potentially acceptable technical offer. During the course of such discussions, the Procurement Officer shall not disclose any information derived from one unpriced technical offer to any other bidder. Any such bidder may submit supplemental information amending its technical offer at any time until the closing date established by the Procurement Officer. Such submission may be made at the request of the Procurement Officer or upon the bidder's own initiative.
- 7) Unacceptable Unpriced Technical Offer. When the Procurement

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

Officer determines a bidder's unpriced technical offer to be unacceptable, such offeror shall not be afforded an additional opportunity to supplement its technical offer.

e) Procedure for Phase Two

1) Initiation. Upon the completion of phase one, the Procurement Officer shall either:

- A) open priced bids submitted in phase one (if priced bids were required to be submitted) from bidders whose unpriced technical offers were found to be acceptable; or
- B) if priced bids have not been submitted, invite each acceptable bidder to submit a priced bid.

2) Conduct. Phase two shall be conducted as any other competitive sealed bid procurement except:

- A) no public notice need be given of this invitation to submit priced bids because such notice was previously given;
- B) after award, the unpriced technical offer of the successful bidder shall be disclosed as follows: The Procurement Officer shall examine written requests of confidentiality for trade secrets and proprietary data in the technical offer of such bidder to determine the validity of any such requests. If the parties do not agree as to the disclosure of data, the Procurement Officer shall reject the offer. Such technical offer shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data; and
- C) unpriced technical offers of bidders who are not awarded the contract shall not be open to public inspection.

Section 2000.2015 Competitive Sealed Proposals

EMERGENCY

- a) Competitive Sealed Proposals may be used whenever permitted by the Code and as described in this Part.
- b) The Competitive Sealed Proposal method of source selection may be used to procure the following categories:
 - 1) electronic data processing equipment, software, and services;
 - 2) telecommunications equipment, software, and services;
 - 3) consulting services; and
 - 4) employee benefits and management of those benefits.
- c) Competitive Sealed Proposals may be used on a case-by-case basis when it is determined by the Procurement Officer that competitive sealed bidding is either not practicable or advantageous.
 - 1) "Practicable" Distinguished from "Advantageous." As used in Section 20-15 (Competitive Sealed Proposals) of the Illinois Procurement Code and in this Section, "practicable" denotes what may be accomplished or put into practical application, and "advantageous" connotes a judgmental assessment of what is in the State's best interest. Competitive sealed bidding may be

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

practicable, that is, reasonably possible, but not necessarily advantageous, that is, in the State's best interest. Before a procurement may be conducted by competitive sealed proposals, the Procurement Officer shall determine in writing that competitive sealed bidding is either not practicable or not advantageous to the State.

2) General Discussion

- A) If competitive sealed bidding is not practicable or is not advantageous, competitive sealed proposals should be used.
- B) The key element in determining whether use of a proposal is advantageous is the need for flexibility. The competitive sealed proposal method differs from competitive sealed bidding in two important ways:
 - i) it permits discussions with competing offerors and changes in their proposals, including price; and
 - ii) it allows comparative judgmental evaluations to be made when selecting among acceptable proposals for award of the contract.
- C) Where evaluation factors involve the relative abilities of offerors to perform, including degrees of experience or expertise, where the types of supplies or services may require the use of comparative, judgmental evaluations to evaluate them adequately, or where the type of need to be satisfied involves weighing aesthetic values to the extent that price is a secondary consideration, use of competitive sealed proposals is the appropriate procurement method.
- 3) When Competitive Sealed Bidding Is Not Practicable. Competitive sealed bidding is not practicable unless the nature of the procurement permits award to a low bidder who agrees by its bid to perform without condition or reservation in accordance with the purchase description, delivery or performance schedule, and all other terms and conditions of the Invitation for Bids. Factors to be considered in determining whether competitive sealed bidding is not practicable include:
 - A) whether the contract needs to be other than a fixed-price type;
 - B) whether oral or written discussions may need to be conducted with offerors concerning technical and price aspects of their proposals;
 - C) whether offerors may need to be afforded the opportunity to revise their proposals, including price;
 - D) whether award may need to be based upon a comparative evaluation, as stated in the Request for Proposals, of differing price, quality, and contractual factors in order to determine the most advantageous offering to the State. Quality factors include technical and performance capability and the content of the technical proposal; and
 - E) whether the primary consideration in determining award may

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- not be price.
- 4) When Competitive Sealed Bidding Is Not Advantageous. A determination may be made to use competitive sealed proposals if it is determined that it is not advantageous to the State, even though practicable, to use competitive sealed bidding. Factors to be considered in determining whether competitive sealed bidding is not advantageous include:
- A) if prior procurements indicate that competitive sealed proposals may result in more beneficial contracts for the State; and
 - B) whether the factors listed in subsection (c)(3) of this Section are desirable, in conducting a procurement, rather than necessary; if they are, then such factors may be used to support a determination that competitive sealed bidding is not advantageous.
- d) Content of the Request for Proposals
The Request for Proposals shall be prepared in accordance with Section 2000.2010 (Competitive Sealed Bidding), provided that it shall also include:
- 1) a statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award, but that proposals may be accepted without such discussions; and
 - 2) a statement of when and how price should be submitted.
- e) Receipt and Registration of Proposals
- 1) Proposals and modifications shall be opened publicly at the time, date and place designated in the Request for Proposals. Opening shall be witnessed by a State employee or by any other person present, but the person opening proposals shall not serve as witness. A record shall be prepared which shall include the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the supply or service item offered. The record of proposals shall be open to public inspection after award of the contract.
 - 2) Proposals and modifications shall be opened in a manner to avoid disclosing contents to competitors. Only State personnel and contractual agents may review the proposals prior to award.
- f) Evaluation of Proposals
- 1) Evaluation Factors in the Request for Proposals. The Request for Proposals shall state all of the evaluation factors, including price, and their relative importance.
 - 2) Evaluation. The evaluation shall be based on the evaluation factors set forth in the Request for Proposals. Factors not specified in the Request for Proposals shall not be considered. Numerical rating systems may be used but are not required.
 - 3) Classifying Proposals. For the purpose of conducting discussions, proposals may be initially classified as:
 - A) acceptable;

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- B) potentially acceptable, that is, reasonably susceptible of being made acceptable; or
 - C) unacceptable. Offerors whose proposals are unacceptable shall be so notified promptly.
- g) Proposal Discussions with Individual Offerors
- 1) "Offerors" Defined. For the purposes of Section 20-15(f) (Competitive Sealed Proposals, Discussion with Responsible Offerors and Revisions to Proposals) of the Illinois Procurement Code and of this Section, the term "offerors" includes only those businesses submitting proposals that are acceptable or potentially acceptable. The term shall not include businesses that submitted unacceptable proposals.
 - 2) Purposes of Discussions. Discussions are held to:
 - A) promote understanding of the State's requirements and the offerors' proposals; and
 - B) facilitate arriving at a contract that will be most advantageous to the State, taking into consideration price and the other evaluation factors set forth in the Request for Proposals.
 - 3) Conduct of Discussions. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. If during discussions there is a need for any substantial clarification of, or change to, the Request for proposals, the Request shall be amended to incorporate such clarification or change. Auction techniques (revealing one offeror's price to another) and disclosure of any information from competing proposals are prohibited. Any substantial oral clarification of a proposal shall be reduced to writing by the offeror.
 - 4) Best and Final Offers. The Procurement Officer may request best and final offers from those offerors deemed acceptable after completion of any discussions. Best and final offers shall be submitted by a specified date and time. The Procurement Officer may conduct additional discussions or change the State's requirements and require another submission of best and final offers. The scope of the best and final and the number of vendors allowed to participate shall be defined by the Procurement Officer. If an offeror does not submit either a notice of withdrawal or another best and final offer, that offeror's immediately previous offer will be construed as its best and final offer.
- h) Award
An award shall be made by the Procurement Officer pursuant to a written determination showing the basis on which the award was found to be most advantageous to the State, based on the factors set forth in the Request for Proposals.
- i) Publicizing Awards
The successful offeror shall be notified of award and such

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

notification may be in the form of a letter, purchase order or other clear communication. When the award exceeds the small purchase limit set in Section 2000.2020 of this Part, notice of award shall be published in the Bulletin.

Section 2000.2020 Small Purchases EMERGENCY

a) Application

1) Procurements of \$10,000 or less for supplies or services, other than professional and artistic, and \$30,000 or less for construction may be made using the method of source selection determined by the Procurement Officer to be most appropriate to the circumstances.

2)

Procurements of less than \$20,000 for professional and artistic services and that have a non-renewal term of one year or less may be made using the method of source selection determined by the Procurement Officer to be most appropriate to the circumstances.

b) In determining whether a contract is under the limit, the value of the contract for the full term and all optional renewals, determined in good faith, shall be utilized. The stated value of the supplies or services, plus any optional supplies and services, shall be utilized. Where the term is calculated month-to-month or in a similar fashion, the amount shall be calculated for a twelve month period.

c) If only a unit price or hourly rate is known, the contract shall be considered small and shall have a not to exceed limit applicable to the type of procurement (see subsection (a) above).

d) If, after signing the contract, the actual cost of completing the contract is determined to exceed \$10,000, and the Procurement Officer determines that a supplemental procurement is not economically feasible or practicable because of the immediacy of the agency's needs or other circumstances, the Procurement Officer must follow the procedures for sole source or emergency procurement, whichever is applicable, to complete the contract.

e) Procurement requirements shall not be artificially divided to avoid using the source selection methods set forth in Section 20-5 of the Illinois Procurement Code.

f) If there is a repetitive need for small procurements of the same type, the Procurement Officer shall consider issuing a competitive sealed bid or proposal for procurement of those needs.

Section 2000.2025 Sole Economically Feasible Source Procurement EMERGENCY

a) Application

The provisions of this Part apply to procurement from a sole economically feasible source (referred to as sole source) unless the estimated amount of the procurement is within the limit set in Section

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

2000.2020 (Small Purchases) or unless emergency conditions exist as defined in Section 2000.2030 (Emergency Procurements) of this Part.

b) Conditions for Use of Sole Source Procurement

Sole source procurement is permissible when a requirement is available from only a single supplier or when only one supplier is deemed economically feasible. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror authorized to provide that item. The following are examples of circumstances that could necessitate sole source procurement:

1) where the compatibility of equipment, accessories, replacement parts, or service is a paramount consideration;

2) where a sole supplier's items are needed for trial use or testing;

3) where a sole supplier's item is to be procured for commercial resale;

4) where public utility regulated services are to be procured;

5) where the item is copyrighted or patented and the item or service is not available except from the holder of the copyright or patent;

6) the procurement of the media for advertising; and

7) the procurement of art or entertainment services.

c) Changes

Changes to an existing contract that are germane and reasonable in scope and cost in relation to the original contract or program, that are necessary or desirable to complete the contract or program, and that can be best accomplished by the contract holder may be procured under this Section when the Procurement Officer determines that the cost of delay or disruption to the contract or program, and the cost of a new solicitation, clearly indicate that the existing vendor is the sole economically feasible source.

d) Procurement Officer to Determine

1) The determination as to whether a procurement shall be made as a sole source shall be made by the Procurement Officer. Such determination and the basis therefore shall be in writing. Such officer may specify the application of such determination and the duration of its effectiveness.

2) Any purchase request submitted to the CPO suggesting that a procurement be restricted to one potential vendor shall be accompanied by an explanation as to why no other vendor will be suitable or acceptable to meet the need.

e) Publication of Sole Source Notice

The Procurement Officer shall publish in the Bulletin notice of intent to contract with that vendor at least 14 days prior to execution of the contract.

1) If no challenge to this determination is made by a vendor within the 14 day period, the Procurement Officer may execute a contract with that vendor.

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- 2) If a challenge is received, the Procurement Officer shall consider the information and shall commence a competitive procurement if the Procurement Officer determines that more than one economically feasible source may be available and the sole source designation is, therefore, not appropriate, unless an emergency situation exists.
- f) Negotiation in Sole Source Procurement
The Procurement Officer shall conduct negotiations, as appropriate, to reach contract terms, including price, and shall maintain a record of each sole source procurement showing:
 - 1) the vendor's name;
 - 2) the amount and type of the contract;
 - 3) what was procured; and
 - 4) the identification number of the contract file.

Section 2000.2030 Emergency Procurements EMERGENCY

- a) Applications
The provisions of this Part apply to every procurement over the small purchase limit set in Section 2000.2020 (Small Purchases) of this Part made under emergency, including quick purchase, conditions.
- b) Definition of Emergency Conditions
 - 1) A procurement may be made under this Section in situations in which:
 - A) public health or safety, including the health or safety of any particular person, is threatened;
 - B) immediate repairs are needed to State property to protect against further loss or damage to State property, or to prevent loss or damage to State property;
 - C) immediate action is needed to prevent or minimize serious disruption in State services;
 - D) action is needed to ensure the integrity of State records;
 - E) a supplier announces bankruptcy, cessation of business, or loss of franchise, or gives other similar reason such that making a purchase immediately is more advantageous to the State than instituting a competitive procurement under the provisions of this Code for the supplies or services;
 - F) items are available on the spot market or at discounted prices for a limited time so that good business judgment mandates a purchase immediately to take advantage of the availability and price;
 - G) equipment or services are necessary in the furtherance of covert activities lawfully conducted by a State agency. Any required disclosures shall be made so as not to jeopardize those covert activities;
 - H) immediate action is necessary to avoid lapsing or loss of federal or donated funds;

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- I) availability of rare items such as books of historical value;
- J) the procurement is for entertainment;
- K) extending an existing contract for such period of time as is needed to conduct a competitive method of source selection where terminating or allowing the contract to terminate would not be advantageous to the State; or
- L) the need for services to protect or further State interests is immediate and use of other competitive source selection procedures under the Code and this Part cannot be accomplished without significant risk of causing serious disadvantage to the State.
- 2) After Unsuccessful Competitive Sealed Bidding or Proposals or Request for Proposals. When bids or proposals received pursuant to a competitive sealed bid or competitive sealed proposal method are unreasonable or noncompetitive, or the price exceeds available funds, and time or other circumstances will not permit the delay required to resolicit competitive sealed bids or proposals, and if emergency conditions exist after an unsuccessful attempt to use competitive sealed bidding, an emergency procurement may be made.
- c) Scope of Emergency Conditions
Emergency procurements shall be limited to the items, quantity and term necessary to meet the emergency need.
- d) Authority to Make Emergency Procurements
Whenever practical, existing State contracts shall be utilized and, whenever practical, approval by the SPO shall be obtained prior to the procurement. The CPO or SPO shall be responsible for making the filings required in Section 20-30 of the Code.
- e) Source Selection Methods
Any method of source selection, whether or not identified in this Part, may be used to conduct the procurement in emergency situations. The procedure used shall be selected to assure that the required items are procured in time to meet the emergency. Such competition as is practicable shall be obtained.
- f) Determination and Record of Emergency Procurement
 - 1) Determination. The Procurement Officer shall make a written determination stating the basis for an emergency procurement and for the selection of the particular vendor. Such determinations shall be kept in the contract file of the Procurement Officer.
 - 2) Record. An affidavit of each emergency procurement shall be filed with the CPO and the Auditor General within 10 days after the procurement and shall include the following information:
 - A) the vendor's name;
 - B) the amount and type of the contract, provided that if only an estimate of the amount is available immediately, the record shall be supplemented with the final amount once

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

known;

- C) a description of what the vendor will do or provide;
 - D) the reasons for using the emergency method of source selection.
- 3) Notice of the emergency procurement shall be published in the Bulletin in accordance with Subpart D of this Part.

Section 2000.2035 Competitive Selection Procedures for Professional and Artistic Services

EMERGENCY

a) Application

- 1) The provisions of this Section apply to every procurement of professional and artistic services except those subject to the Architectural, Engineering and Land Surveying Qualifications Based Selection Act [30 ILCS 535].

- 2) "Professional and artistic services" means those services provided under contract to a State agency by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability [30 ILCS 525/1-15.60].

b) Professional and artistic services are further defined as follows:

- 1) "Qualified by education" means the individual who would perform the services must have obtained the level of education specified in the Request for Proposals.
- 2) "Qualified by experience" means the individual who would perform the services must have the level of general experience specified in the Request for Proposals.
- 3) "Qualified by technical ability" means the individual who would perform the services must demonstrate a high degree of skill or ability in performing services that are the same, similar or closely related in nature to those specified in the Request for Proposals.
- 4) An essential element distinguishing professional and artistic services from other services is confidence, trust, and belief in not only the ability, but the talent, of the individual performing the service. These services are primarily for intellectual or creative skills. Contracts for services primarily involving manual skills or labor are not professional and artistic services contracts. (See Illinois Attorney General Opinion S-256, January 20, 1971.)
- 5) If the professional or artistic contract is with a firm or other business entity, the individuals whose education, experience and technical ability provided the basis on which the firm or other business entity was selected must meet the qualifications.
- 6) When SOS requires services that meet the requirements of this subsection (b), the competitive selection procedures described in this Section must be followed. Services that do not meet the

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

requirements of this Section must be procured in accordance with other methods of source selection authorized by the Code and this Part.

- c) The categories of services enumerated below shall be considered and procured as professional and artistic services. With regard to other services, the SPO may determine whether the factors identified in subsection (b), when applied to particular services to be procured, require such services to be procured as professional and artistic under these competitive selection procedures, or as services that are subject to one of the other methods of source selection authorized by the Code and this Part. The following categories are examples of disciplines that would always be professional and artistic services:

- 1) law;
- 2) accounting;
- 3) medicine;
- 4) dentistry; and
- 5) clinical psychology.

- d) Architect, engineering and land surveying services shall be procured pursuant to the procedures of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535]. Such procurements are not subject to the procedures for other professional services established in the Code or this Part.

- e) Conditions for Use of Competitive Selection Procedures Except as authorized under Section 20-25 (Sole Source Procurement) or Section 20-30 (Emergency Procurements) of the Code, these competitive selection procedures shall be used for all procurements of professional and artistic services of \$20,000 or more. Services less than \$20,000 and for a nonrenewable term of one year or less may be procured in accordance with Section 2000.2020 (Small Purchases) of this Part.

- f) Prequalification. The SPO shall maintain a list of prequalified professional and artistic vendors in accordance with Section 2000.2045 of this Part. Persons may amend statements of qualifications at any time by filing a new statement. Failure of a professional and artistic vendor to prequalify shall not be cause for rejection of a proposal provided that the responsive offeror supplies with its proposal all information defined by the prequalification process.

g) Public Notice of Competitive Selection Procedures

- 1) Notice of the need for professional and artistic services shall be made by the Procurement Officer in the form of a Request for Proposals.
- 2) Notice shall be given as provided in Section 2000.2010 (Competitive Sealed Bidding) of this Part.
- 3) Notice shall also be distributed to prequalified persons interested in performing the services required by the proposed contract.
- h) Request for Proposals

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

1) Contents. The Request for Proposals shall be in the form specified by the CPO and shall contain at least the following information:

- A) the type of services required;
 - B) a description of the work involved;
 - C) an estimate of when and for how long the services will be required;
 - D) the type of contract to be used;
 - E) a date by which proposals for the performance of the services shall be submitted;
 - F) a statement of the minimum information that the proposal shall contain, which may, by way of example, include:
 - i) the name of the offeror, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract;
 - ii) if deemed relevant by the Procurement Officer, the age of the offeror's business and average number of employees over a previous period of time, as specified in the Request for Proposals;
 - iii) the abilities, qualifications, and experience of all persons who would be assigned to provide the required services;
 - iv) a listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of time, as specified in the Request for Proposals;
 - v) a plan, giving as much detail as is practical, explaining how the services will be performed;
 - G) price (to be submitted in a separate envelope in the proposal package and not mentioned elsewhere in the proposal package); and
 - H) the factors to be used in the evaluation and selection process and their relative importance.
- 2) Evaluation. Proposals shall be evaluated only on the basis of evaluation factors stated in the Request for Proposals. Price will not be evaluated until ranking of all proposals and identification of the most qualified vendor. The relative importance of the evaluation factors will vary according to the type of services being procured. The minimum factors are:
- A) the plan for performing the required services;
 - B) ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;
 - C) the personnel, equipment, and facilities to perform the services currently available or demonstrated to be made

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

available at the time of contracting; and
D) a record of past performance of similar work.

- i) Pre-Proposal Conference
A pre-proposal conference, if appropriate, shall be conducted in accordance with Section 2000.2010(f) (Pre-Bid Conference). Such a conference may be held anytime prior to the date established for submission of proposals.
- j) Delivery, Receipt and Handling of Proposals
1) Proposals shall be submitted to and opened by the SPO in accordance with instructions given by the SPO.
2) Public Opening
A) Proposals and modifications shall be opened publicly at the time, date and place designated in the Request for Proposals.
B) Opening shall be witnessed by a State employee or by any other person present, but the person opening proposals shall not serve as witness. A record shall be prepared that shall include the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the supply or service item offered. The record of proposals shall be open to public inspection after award of the contract.
- C) Proposals and modifications shall be opened in a manner designed to avoid disclosing contents to competitors. Only State personnel and contractual agents may review the proposals prior to award.
- D) Proposals of offerors who are not awarded the contract shall not be open to public inspection.
- k) Discussions
1) Discussions Permissible. The Procurement Officer may conduct discussions with any offeror to:
 - A) determine in greater detail such offeror's qualifications; and
 - B) explore with the offeror the scope and nature of the required services, the offeror's proposed method of performance, and the relative utility of alternative methods of approach. The Procurement Officer may allow changes to the proposal based on those discussions.
- 2) No Disclosure of Information. Discussions shall not disclose any information derived from proposals submitted by other offerors, and the agency conducting the procurement shall not disclose any information contained in any proposals until after award of the proposed contract has been made. The proposal of the offeror awarded the contract shall be open to public inspection except as otherwise provided in the contract.
- 1) Selection of the Best Qualified Offerors
After conclusion of validation of qualifications, evaluation, and discussion, the Procurement Officer shall rank the acceptable offerors

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

in the order of their respective qualifications.

m) Evaluation of Pricing Data

Pricing submitted for all acceptable proposals shall be opened and ranked.

- 1) If the low price is submitted by the most qualified vendor, the Procurement Officer may award to that vendor.
- 2) If the price of the most qualified vendor is not low and if it does not exceed \$25,000, the Procurement Officer, but not a designee, may award to that vendor.
- 3) If the price of the best qualified vendor exceeds \$25,000, the Procurement Officer, but not a designee, must state why a vendor other than the low priced vendor was selected and that determination shall be published in the Bulletin.

n) Negotiation and Award of Contract

1) General. The Procurement Officer shall attempt to negotiate a contract with the best qualified offeror for the required services at fair and reasonable compensation. The Procurement Officer may, in the interest of efficiency, negotiate with other vendors, while negotiating with the best qualified vendor.

2) Elements of Negotiation. At a minimum, contract negotiations shall be directed toward:

- A) making certain that the offeror has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services;
 - B) determining that the offeror will make available the necessary personnel and facilities to perform the services within the required time; and
 - C) agreeing upon compensation that is fair and reasonable, taking into account the estimated value of the required services and the scope, complexity, and nature of such services.
- 3) Successful Negotiation of Contract with Best Qualified Offeror
- A) If compensation, contract requirements, and contract documents can be agreed upon with the best qualified offeror, the contract shall be awarded to that offeror, unless the procurement is canceled.
 - B) Compensation must be determined in writing to be fair and reasonable. Fair and reasonable compensation shall be determined by the Procurement Officer based on the circumstances of the particular procurement, including but not limited to the nature of the services needed, qualifications of the offerors, consideration of range of prices received in the course of the procurement, and the agency's identified budget.
- 4) Failure to Negotiate Contract with Best Qualified Offeror
- A) If compensation, contract requirements, or contract documents cannot be agreed upon with the best qualified offeror, a written record stating the reasons therefore.

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

shall be placed in the file. The Procurement Officer shall advise such offeror of the termination of negotiations.

- B) Upon failure to negotiate a contract with the best qualified offeror, the Procurement Officer may enter into negotiations with the next most qualified offeror.
- C) Nothing in this Section shall prohibit the Procurement Officer from making a selection that represents the best value, qualifications, price and other relevant factors established in the request for proposals being considered. The Procurement Officer may, in considering best value, determine the proposal from a fully qualified vendor that submitted the lowest price to be the best value without further evaluation.
- o) Notice of Award. Written notice of award shall be public information and made a part of the contract file. The SPO shall publish the names of the responsible decision makers of the purchasing agency, the name of the agency, the successful vendor, a contract reference number or other identifier, and the value of the contract. Publication shall be in the next available issue of the Bulletin.
- p) Post Performance Review. The SPO shall require the using department to provide a synopsis of the contract and shall rate the vendor's performance using the form developed by the SPO. A copy of the completed form shall be provided to the SPO.

Section 2000.2036 Other Methods of Source Selection
EMERGENCY

a) Split Award

- 1) An award of a definite quantity requirement may be split between bidders or offerors. Each portion shall be for a definite quantity and the sum of the portions shall be the total definite quantity required. A split award may be used only when award to more than one bidder or offeror for different amounts of the same item are necessary to obtain the total quantity or the required delivery.

- 2) The Procurement Officer shall make a written determination setting forth the reasons for the split award, which determination shall be made a part of the procurement file.

b) Multiple Award

- 1) A multiple award is an award of an indefinite quantity contract to more than one bidder or offeror when the State is obligated to order all of its actual requirements from those vendors.
- 2) A multiple award may be made when award to two or more bidders or offerors for similar products is necessary for adequate delivery, service, or product compatibility. Any multiple award shall be made in accordance with the provisions of Section 2000.2010 (Competitive Sealed Bidding), Section 2000.2015 (Competitive Sealed Proposals), Section 2000.2020 (Small

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

Purchases), and Section 2000.2030 (Emergency Procurements), as applicable. Awards shall not be made for the purpose of simply dividing the business or to select products or suppliers to allow for user preference unrelated to utility or economy. Any such awards shall be limited to the least number of suppliers necessary to meet the valid requirements of the State.

- 3) The State shall reserve the right to take bids separately if a particular quantity requirement arises that exceeds its normal requirement or an amount specified in the contract.
- 4) If a multiple award is anticipated, the solicitation shall state this fact as well as the criteria for award.
- 5) In a multiple award situation, one vendor may be designated as the primary recipient of orders. The other awardees may receive orders in the event the primary vendor is unable to deliver or for other reasons as determined by the Procurement Officer.

c) Master Contracts

- 1) A master contract contains agreed contractual terms and conditions established for the convenience of the parties to be used in conjunction with a subsequent procurement and processed in accordance with the requirements of the Code and this Part. A master contract is not a procurement. It creates no obligation on the part of the State to procure from the vendor, except as provided in subsection (c)(2).

- 2) Orders may be placed against master contracts without use of any prescribed method of source selection for convenience of processing small procurements

d) Auction

Purchases may be made at auction in accordance with the procedural requirements applicable to the particular auction. Notice and competition is not required and the amount payable shall be the amount bid and accepted plus any required buyer's premium.

e) Non-governmental Joint Purchase

- 1) The SPO may enter into an agreement with a person not eligible for the Governmental Joint Purchasing Act for the joint procurement of anything covered by the Code. Any method of source selection may be used and may be modified or adapted to meet the needs of the non-State entity.

- 2) The primary use of this provision shall be to accommodate mutual relationships between the State and not-for-profit groups whose purpose is to conduct programs adjunct to those of the State agency that is party to the contract.

f) Federal Requirements

The Procurement Officer may conduct procurements in accordance with federal requirements that are necessary to receive or maintain those federal aid funds, grants or loans.

g) Donations

- 1) When a procurement will have the majority of funding from a

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

donation, the terms of which donation require use of particular procurement or contracting procedures, the Procurement Officer may follow those procedures, but shall follow the Code and this Part whenever practicable.

Section 2000.2037 Tie Bids and Proposals
EMERGENCY

- a) Tie bids or proposals are those from responsive and responsible vendors that are identical in price or evaluation and represent the low price.

- b) Tie bids or proposals will be treated as follows:

- 1) If the tied vendors include an Illinois resident vendor, the Illinois resident vendor shall be given the award. In all other situations, including if two or more Illinois resident bidders are tied, the decision shall be made in accordance with this subsection (b). "Illinois resident vendor" has the meaning given in Section 2000.4510 (Resident Bidder Preference) of this Part.

- 2) If there is a significant difference in responsibility (including ability to provide the service or deliver in the quantity and at the time required), the award will be made to the vendor who is deemed to be the most responsible. A vendor who has had experience in contracting with the State shall be given additional consideration in determining responsibility if the Procurement Officer determines that dealing with a vendor that has knowledge of State requirements, contracts, job sites, payment practices and such other factors and with which there has been favorable past experience increases the likelihood of successful performance.

- 3) If there is no significant difference in responsibility, but there is a difference in the quality of the supplies or services offered, the vendor offering the best quality will be accepted.

- 4) If there is no significant difference in responsibility and no difference in quality of the supplies or services offered, the vendor offering the earliest delivery time will be accepted in any case in which the solicitation specified that the needs of the State require delivery as early as possible.

- 5) If the bids or proposals are equal in every respect, the award shall be made by lot unless the Procurement Officer determines that splitting the award among two or more of the tied bidders is in the best interest of the State. Awards may be split if all affected bidders agree, if splitting is feasible given the type of supplies or services requested, if overall pricing would not increase, if delivery would be better ensured, or if necessary or desirable to promote future competition.

- c) Record. Records shall be maintained of all procurements on which tie bids or proposals were received. The report shall provide at

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

least the following information:

- 1) the identification number of the solicitation;
- 2) a description of what was procured; and
- 3) a listing of all the bidders and the prices submitted.

Section 2000.2038 Mistakes EMERGENCY

- a) General. Corrections to bids, proposals or other procurement processes are allowed, but only to the extent not contrary to the best interest of the State or the fair treatment of other bidders.
- b) Mistakes Discovered Before Opening. A vendor may correct mistakes discovered before the time and date set for opening by withdrawing or correcting as provided in this Section.
- c) Confirmation of Mistake. When the Procurement Officer knows or has reason to conclude that a mistake has been made, such officer shall request the vendor to confirm the information. Situations in which confirmation should be requested include obvious or apparent errors on the face of the document or a price unreasonably lower than the others submitted. If the vendor alleges a mistake, the bid or proposal may be corrected or withdrawn if the conditions set forth in this Section, as applicable, are met.
- d) Mistakes in Bids Discovered After Opening but Before Award. This subsection (d) sets forth procedures to be applied in situations in which mistakes in bids are discovered after the time and date set for bid opening but before award.

- 1) Minor informalities. A minor informality or irregularity is one that is a matter of form or pertains to some immaterial or inconsequential defect or variation of a bid from the exact requirement of the Invitation for Bids, the correction or waiver of which would not be prejudicial to the State (i.e., the effect on price, quality, quantity, delivery, or contractual conditions is negligible). The Procurement Officer shall waive such informalities or allow the bidder to correct them depending on which is in the best interest of the State. Examples of minor informalities as to form include the failure of a bidder to:
 - A) return the number of signed bids required by the Invitation for Bids

- B) sign the bid, but only if the unsigned bid is accompanied by other material indicating the bidder's intent to be bound, including but not limited to signature on an auxiliary form, submission of a bid guarantee or submission of a signed transmittal letter; or
- C) acknowledge receipt of an amendment to the Invitation for Bids, but only if:
 - i) it is clear from the bid that the bidder received the amendment and intended to be bound by its terms; or
 - ii) the amendment involved had a negligible effect on

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- price, quantity, quality, or delivery.
- 2) Mistakes Where Intended Correct Bid Is Evident. If the mistake and the intended correct bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.
- 3) Mistakes Where Intended Correct Bid Is Not Evident. A bidder may be permitted to withdraw a low bid if:
 - A) a mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
 - B) the bidder submits proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made.
- e) Mistakes in Proposals Discovered After Receipt, but Before Award. This subsection (e) sets forth procedures to be applied in four situations in which mistakes in proposals are discovered after receipt of proposals but before award.
 - 1) During Discussions; Prior to Best and Final Offers. Once discussions are commenced with any offeror or after best and final offers are requested, any offeror may freely correct any mistake prior to the date set for conclusion of discussions or for receipt of best and final offers.
 - 2) Minor Informalities. Minor informalities, unless otherwise corrected by an offeror as provided in this Section, shall be treated as they are under subsection (d).
 - 3) Correction of Mistakes. If discussions are not held or if the best and final offers upon which award will be made have been received, mistakes may be corrected and the intended correct offer considered only if:
 - A) the mistake and the intended correct offer are clearly evident on the face of the proposal, in which event the proposal may not be withdrawn; or
 - B) the mistake is not clearly evident on the face of the proposal, but the offeror submits adequate proof that clearly and convincingly demonstrates both the existence of a mistake and the intended correct offer, and such correction would not be contrary to the fair and equal treatment of other offerors.
 - 4) Withdrawal of Proposals. If discussions are not held, or if the best and final offers upon which award will be made have been received, the offeror may be permitted to withdraw the proposal if:
 - A) the mistake is clearly evident on the face of the proposal and the intended correct offer is not;
 - B) the offeror submits proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made but does not demonstrate the intended correct offer; or

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

C) the offeror submits adequate proof that clearly and convincingly demonstrates the intended correct offer, but to allow corrections would be contrary to the fair and equal treatment of other offerors.

f) Mistakes Discovered After Award. Mistakes shall not be corrected after award of the contract except where the Procurement Officer finds it would be unconscionable (e.g., if the mistake resulted in a windfall to the State) not to allow the mistake to be corrected.

g) Determinations Required. When a proposal is corrected or withdrawn, or correction or withdrawal is denied, a written determination shall be prepared showing that relief was granted or denied in accordance with this Part. The Procurement Officer shall prepare the determination.

Section 2000.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

EMERGENCY

a) Scope of this Section

The provisions of this Section shall govern the cancellation of any solicitations whether issued by the State under competitive sealed bidding, competitive sealed proposals, small purchases, or any other source selection method, and rejection of bids or proposals in whole or in part.

b) Policy

Any solicitation may be canceled when the Procurement Officer believes cancellation to be in the State's best interest. Nothing shall compel the award of a contract.

c) Cancellation of Solicitation; Rejection of All Bids or Proposals Prior to Opening

1) As used in this Section, "opening" means the date set for opening of bids, receipt of unpriced technical offers in multi-step sealed bidding, or receipt of proposals in competitive sealed proposals.

2) Prior to opening, a solicitation may be canceled in whole or in part when the Procurement Officer determines in writing that such action is in the State's best interest for reasons including, but not limited to:

- A) the State no longer requires the supplies or services;
- B) the State no longer can reasonably expect to fund the procurement; or
- C) proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable.

3) When a solicitation is canceled prior to opening, notice of cancellation shall be sent to all businesses that responded to the solicitation.

4) The notice of cancellation shall:

- A) identify the solicitation;

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

B) briefly explain the reason for cancellation; and

C) where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurements of similar supplies or services.

d) Cancellation of Solicitation; Rejection of All Bids or Proposals After Opening

1) After opening but prior to award, all bids or proposals may be rejected in whole or in part when the Procurement Officer determines in writing that such action is in the State's best interest. Such reasons may include, but are not limited to:

A) the supplies or services being procured are no longer required;

B) ambiguous or otherwise inadequate specifications were part of the solicitation;

C) the solicitation did not provide for consideration of all factors of significance to the State;

D) prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;

E) all otherwise acceptable bids or proposals received are at clearly unreasonable prices; or

F) there is reason to question whether the bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.

2) When the solicitation is canceled or when all bids or proposals are rejected, all vendors who submitted bids or proposals shall be sent a notice upon request informing them of the reasons for the cancellation or rejection.

e) Documentation. The reasons for cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.

f) Rejection of Individual Bids or Proposals

1) General. This subsection (f) applies to rejections of individual bids or proposals in whole or in part.

2) Notice in Solicitation. Each solicitation shall provide that any bid or proposal may be rejected in whole or in part when in the best interest of the State as provided in this Section.

3) Reasons for Rejection

Reasons for rejecting a bid or proposal may include, but are not limited to:

A) the business that submitted the bid or proposal is nonresponsible as determined under Section 2000.2046 (Responsibility) of this Part;

B) the bid or proposal is not responsive, that is, it does not conform in all material respects to the solicitation;

C) the proposal ultimately (that is, after any opportunity has passed for altering or clarifying the proposal) fails to

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

meet the announced requirements of the State in some material respect;

D) the supply or service item offered in the bid is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternates or other acceptability criteria set forth in the Invitation for Bids; or

E) the proposed price is clearly unreasonable.

4) Notice of Rejection. Upon request, unsuccessful bidders or offerors shall be advised of the reasons for rejection.

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section 2000.2043 Suppliers

EMERGENCY

a) The Procurement Officer may contract with any qualified source of supply, but must procure from the Directed Sources except as permitted by those sources, and must consider the following Special Sources.

b) Directed Sources -- State-Produced Supplies or Services

1) Correctional Industries. The SPO, after consulting with the Department of Corrections, shall determine the type and extent of the preference given to supplies produced or services performed by Correctional Industries. Factors to be considered in determining the preference include, but are not limited to, the ability of Correctional Industries to meet the State's requirements, the price charged and the reason for the Correctional Industries program.

2) Central Services. Supplies and services available from the program operations of the Department of Central Management Services shall be utilized when ever possible.

c) Special Sources

1) Prior to any equipment procurement, the SOS may consider property available from the State and Federal Surplus Warehouses, which are under the jurisdiction of the Department of Central Management Services. 30 ILCS 605/7a requires that surplus furniture be considered before any purchase of new furniture valued at \$500 or more per piece.

2) Various supplies and services are available from qualified workshops for the disabled and procurement from these workshops is encouraged. Notice and competition is not required pursuant to Section 45-35 of the Code. Information regarding the workshops is available from DCMS.

3) Various supplies and services are available from State agencies and other governmental units. These may be procured without notice and competition.

Section 2000.2044 Vendor List/Required Use

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

EMERGENCY

a) The CPO may maintain a list of vendors interested in doing business with the State. The names and addresses of vendors on the list shall be available for public inspection.

b) Inclusion on, or exclusion from, the list shall not be a factor in determining whether a vendor is a responsible vendor.

c) When vendors are directly solicited by the State, Invitations for Bids and other solicitations will be sent to vendors on the vendor list for supplies or services in question, except in the following cases:

1) The vendor does not sell the particular commodity or equipment.

2) The number of vendors for a procurement classification is of such magnitude that optimum prices may reasonably be expected without soliciting the entire vendor list. The Procurement Officer may, if he/she determines that the best interest of the State would be served, rotate the selection from the list on any equitable basis.

3) The Procurement Officer determines that the best interests of the State will be served by limiting vendors to those in defined geographic areas (example: purchases of ready-mix concrete, perishables, and equipment requiring immediate service).

d) The SPO may alternately refer to vendor lists maintained by DCMS.

Section 2000.2045 Prequalification

EMERGENCY

a) General

1) The SPO may require that vendors be prequalified as a condition of being placed on the bid list. An opportunity to prequalify shall be allowed at least one time each fiscal year. The opportunity to prequalify and whether prequalification will be a condition of bidding or being awarded a contract shall be announced in the Bulletin.

2) The fact that a prospective vendor has been prequalified does not necessarily represent a finding of responsibility for a particular procurement.

3) Except in the case of professional and artistic services, distribution of and responses to the solicitation may be limited to prequalified vendors and award of a contract may be denied because a vendor was not prequalified.

b) Professional and Artistic Services

1) When the services are needed on a recurring basis, the CPO shall actively solicit persons engaged in providing such services to submit annual statements of qualifications in a prescribed format that shall include at a minimum the following information:

- A) technical education and training;
- B) general or special experience, certifications, licenses, and memberships in professional associations, societies, or

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- boards; and
- C) an expression of interest in providing a particular professional and artistic service.
- 2) Categories for prequalification will include, but are not limited to, those listed in Section 2000.2035 of this Part.
- c) Qualified Products Lists. Qualified products lists are treated in Section 2000.2050 (Specifications and Samples) of this Part.

Section 2000.2046 Responsibility**EMERGENCY**

- a) Application
- Contracts are to be made only with responsible vendors unless no responsible vendor is available to meet the State's needs. If there is doubt about responsibility, and if a bond or other security would adequately protect the State's interests, then that vendor may be awarded a contract upon receipt of the bond or other security.
- b) Standards of Responsibility
- 1) Standards. Factors to be considered in determining whether the standard of responsibility has been met include whether a prospective vendor:
- A) has available the appropriate financial, material, equipment, facility, and personnel resources and expertise (or the ability to obtain them) necessary to indicate its capability to meet all contractual requirements (the Procurement Officer may designate a level of financial resource below which the vendor will be deemed "not responsible");
- B) is able to comply with required or proposed delivery or performance schedules, taking into consideration all existing commercial and governmental commitments;
- C) has a satisfactory record of performance. Vendors who are or have been deficient in current or recent contract performance in dealing with the State or other customers may be deemed "not responsible" unless the deficiency is shown to have been beyond the reasonable control of the vendor;
- D) has a satisfactory record of integrity and business ethics. Vendors who are under investigation or indictment for criminal or civil actions that bear on the particular procurement or that create a reasonable inference or appearance of a lack of integrity on the part of the vendor may be declared not responsible for the particular procurement;
- E) is qualified legally to contract with the State;
- F) has supplied all necessary information in connection with the inquiry concerning responsibility;
- G) has a current Public Contracts number from the Illinois Department of Human Rights, pursuant to 44 Ill. Adm. Code

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

750.210, if required. Proof of application prior to opening of bids or proposals will be sufficient for an initial determination; and

- H) pays prevailing wages, if required by law.
- 2) Information Pertaining to Responsibility. The prospective vendor shall supply information requested by the Procurement Officer concerning the responsibility of such vendor. The State may supplement this information from other sources and may require additional documentation at any time. If such vendor fails to supply the requested information, the Procurement Officer shall base the determination of responsibility upon any available information, or may find the prospective vendor nonresponsible.
- c) Ability to Meet Standards
- The prospective vendor may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request:
- 1) evidence that such vendor possesses such necessary items;
 - 2) acceptable plans to subcontract for such necessary items; or
 - 3) a documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items.
- d) Duty Concerning Responsibility
- Before awarding a contract, the Procurement Officer must be satisfied that the prospective vendor is responsible. Responsibility can be proven until time of contract execution unless the solicitation or other law requires that the vendor submit information necessary to determine responsibility by a stated date or time.
- e) Written Determination of Nonresponsibility Required
- If a vendor who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the SPO. The final determination shall be made part of the procurement file.
- f) Bond for Responsibility
- Vendors not having a history of performance may be considered responsible if no other disqualifying factors exist. A bond or other security may be required of such vendors.
- g) Affiliated Companies
- Vendors who are newly formed business concerns having substantially the same owners, officers, directors, or beneficiaries as a previously existing vendor that has been determined not responsible will also be determined not to be responsible unless the new organization can prove it was not set up for the purpose of avoiding an earlier determination of nonresponsibility.

SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

Section 2000.2047 Security Requirements
EMERGENCY

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- a) A Procurement Officer may require that a vendor furnish bid, proposal, or performance security on State contracts. Whenever security is required, except as provided herein, the procurement document will clearly indicate the type and amount of security.
- b) Security, unless otherwise specified, may be in the form of cashier's check, certified check, money order, irrevocable letter of credit or bond. Any bond must be issued by a surety company authorized to do business in the State of Illinois.
- c) Unless the amount is set by law, the Procurement Officer will determine the amount, in dollars or percentage of contract price, that will adequately protect the State's interests. That amount will vary depending on the type of procurement and the risks and potential losses associated with delay or failure to complete the project, and for other such reasons.
- d) A vendor may be required to furnish up to 100% performance security at any time during contract performance and at its cost, if it appears that delivery or production schedules cannot be met, quality is poor, responsibility is questioned and for similar reasons.
- e) Permissive/Mandatory Security
 - 1) Bid or proposal security is permissive on any contract but is not appropriate on emergency or sole source procurements.
 - 2) Performance security is permissive on any contract and is recommended on contracts calling for advance payment.
 - 3) Performance security is required on all public works contracts.
- f) A vendor may submit a single or continuous security each year that will be applicable on all SOS contracts. When such security has been obligated in an amount equal to the sum of accumulated security requirements, additional security must be submitted.
- g) Bid or proposal security will be returned to unsuccessful vendors as soon after award as possible. The bid or proposal security of the successful vendor will be returned after contracts have been signed and performance security, if any, submitted. Performance security will be returned upon full performance.

SUBPART H: SPECIFICATIONS AND SAMPLES

Section 2000.2050 Specifications and Samples

EMERGENCY

- a) Responsibilities Regarding Specifications
 - 1) The Procurement Officer shall write the necessary specifications except as noted in this subsection (a).
 - 2) If a specification for general or common use or a qualified products list exists for an item to be procured under Section 20-20 of the Code (Small Purchases), it shall be used except as otherwise authorized by the SPO. If no such specification exists, SPOs shall have the authority to prepare specifications for use in such purchases. In an emergency under Section 20-30 of the

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- Code, any necessary specification may be utilized without regard to the provisions of this Subpart.
- b) Procedures for the development of Specifications
 - 1) If the SPO develops a specification for a common or general use item or has developed a qualified products list in accordance with this Section for a particular supply or service, it shall be used unless the SPO authorizes use of another specification.
 - 2) All procurements shall be based on specifications that accurately reflect the State's needs. Specifications shall clearly and precisely describe the salient technical or performance requirements.
 - 3) Specifications shall not include restrictions that do not significantly affect the technical requirements or performance requirements, or other legitimate State needs. All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply or service, or procurement from a sole source, unless no other manner of description will suffice.
 - 4) Any specifications or standards adopted by business, industry, not-for-profit organization or governmental unit may be adopted by reference.
 - 5) A specification may provide alternate descriptions where two or more design, functional, or performance criteria will satisfactorily meet the State's requirements.
 - c) Brand Name or Equal Specification
 - 1) Brand name or equal specifications may be used when the Procurement Officer determines in writing that:
 - A) no specification for a common or general use specification or qualified products list is available;
 - B) time does not permit the preparation of another form of specification, not including a brand name specification;
 - C) the nature of the product or the nature of the State's requirement makes use of a brand name or equal specification suitable for the procurement; or
 - D) use of a brand name or equal specification is in the State's best interest.
 - 2) Brand name or equal specifications shall seek to designate more than one brand as "or equal", and shall further state that substantially equivalent products to those designated will be considered for award.
 - 3) Unless the Procurement Officer determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics that are required.
 - 4) Where a brand name or equal specification is used in a

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. "Or equal" submissions will not be rejected because of minor differences in design, construction or features that do not affect the suitability of the product for its intended use. Burden of proof that the product is equal is on the bidder.

d) Brand Name Only Specification

- 1) Determination. A brand name only specification may be used only when the Procurement Officer makes a written determination that only the identified brand name item or items will satisfy the State's needs.
- 2) Use. Brand name alone may be specified in order to ensure compatibility in existing systems, to preserve warranty, to ensure maintenance, or as authorized in writing by the SPO. The Procurement Officer may, pursuant to an authorized competitive procedure, select a particular vendor to provide supplies or services for a specified period of time, and for that period the supplier of additional, related and updated supplies and services may be limited to the selected vendor or the brand initially selected.
- 3) Competition. The Procurement Officer shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 2000.2025 (Sole Source Procurement) of this Part.

e) Qualified Products List

- 1) Use. A qualified products list may be developed by the Procurement Officer when testing or examination of the supplies prior to issuance of the solicitation is desirable or necessary in order to best satisfy State requirements.
- 2) Solicitation. When developing a qualified products list, a representative group of potential suppliers shall be solicited in writing to submit products for testing and examination to determine acceptability for inclusion in a qualified products list. Any potential supplier, even though not solicited, may offer its products for consideration during the time allowed for testing and examination.
- 3) Testing and Confidential Data. Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with established requirements. Except as otherwise provided by law, trade secrets, test data, and similar information provided by the supplier will be kept confidential when requested in writing by the supplier.

f) Proven Products

- The supply or service may be rejected if it has not been offered to

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

other governmental or commercial accounts for at least one year. Specifications may require that the supply or services must have been used in business or industry for a specified period of time to be considered.

g) State Required Samples

- 1) Any required samples must be submitted as instructed in the solicitation with transportation prepaid by the vendor. Each sample must be labeled with the vendor's name, address and a means of matching the sample with the applicable bid or proposal.
- 2) Any sample submitted must be representative of the item that would be delivered if a contract were awarded for that item. Samples submitted by a successful vendor will be retained to check continuing quality. Submission of samples will not limit the State's right to require adherence to specifications.
- 3) No payment will be made for State Required Samples. Samples not destroyed or consumed by examination or testing will be returned upon request and at vendor's expense. Such request must be made at time of submission with return collect or prepayment provisions and instructions for return accompanying the samples.

h) Product Demonstration

Any vendor may request time and space to demonstrate a product or service. Agreement to allow such demonstration will be solely at the State's discretion and will not entitle the bidder to a contract nor shall payment for the demonstration be allowed unless a written contract had been executed prior to the demonstration.

i) Specifications Prepared by Other Than State Personnel

- 1) Specifications may be prepared by other than State personnel, including, but not limited to, consultants, architects, engineers, designers, and other drafters of specifications for public contracts when the Procurement Officer determines that there will be no substantial conflict of interest involved and it is otherwise in the best interest of the State, and provided the Procurement Officer retains the authority to finally approve the specifications. Contracts for the preparation of specifications by other than State personnel shall require the specification writer to adhere to State requirements.
- 2) The person who prepared the specifications shall not submit a bid or proposal to meet the procurement need unless the Secretary of State, and not a designee, determines in writing that it would be in the best interest to accept such a bid or proposal from that person. A notice to that effect shall be published in the Bulletin.

SUBPART I: CONTRACT TYPE

Section 2000.2055 Types of Contracts
EMERGENCY

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- a) Scope
This Section contains descriptions of types of contracts and limitations as to when they should be utilized by the State in its procurements. Types of contracts not mentioned in this Section may also be utilized.
- b) Prohibition of Cost-Plus-a-Percentage-of-Cost Contracting
The cost-plus-a-percentage-of-cost contract is prohibited by Section 20-55 of the Illinois Procurement Code. This type of contracting may not be used alone or in conjunction with an authorized type of contract. A cost-plus-percentage-of-cost contract is one in which the vendor selects the supply or service on which the vendor's percentage is applied.
- 1) A percentage mark-up from an agreed price list is not a cost-plus-a-percentage-of-cost contract.
 - 2) A percentage mark-up from the price of a supply or service selected by the State or another vendor under contract to the State is not a cost-plus-a-percentage-of-cost contract.
- c) Types of Fixed-Price Contracts
- 1) Firm Fixed-Price Contract. A firm fixed-priced contract provides a price that is not subject to adjustment because of variations in the vendor's cost of performing the work specified in the contract.
 - 2) Fixed-Price Contract with Price Adjustment
 - A) A fixed-price contract with price adjustment provides for variation in the contract price under special conditions defined in the contract, other than customary provisions authorizing price adjustments due to modifications to the work. The formula or other basis by which the adjustment in the vendor's price can be made shall be specified in the solicitation and the resulting contract. Adjustment allowed may be upward or downward only, or both upward and downward. Examples of conditions under which adjustments may be provided in fixed-price contracts are:
 - i) changes in the vendor's labor agreement rates as applied to an industry or area (such as are frequently found in contracts for the purchase of coal);
 - ii) changes due to rapid and substantial price fluctuations that can be related to an accepted index (such as contracts for gasoline, heating oils, and dental gold alloy); and
 - iii) in requirement contracts, where a vendor is selected to provide all of the State's needs for the items specified in the contract, when a general price change applicable to all customers occurs, or when a general price change alters the base price (such as a change in a manufacturer's published price list or posted price to which a fixed discount is applied pursuant to the contract to determine the contract price).

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- B) If the contract permits unilateral action by the vendor to bring about the condition under which a price increase may occur, the State shall have the right to reject the price increase and terminate without cost the future performance of the contract.
- d) Cost-Reimbursement Contracts
- 1) Determination Prior to Use
 - A) A cost-reimbursement type contract may be used only when the Procurement Officer determines in writing that such a contract is likely to be less costly to the State than any other type or that it is impracticable to obtain the items.
 - B) Reimbursement of travel expenses in accordance with applicable travel control board regulations is authorized without further determinations.
 - 2) Cost Contract. A cost contract provides that the vendor will be reimbursed for allowable costs incurred in performing the contract, but will not receive a fee.
 - 3) Cost-Plus-Fixed-Fee Contract. This is a cost-reimbursement type contract that provides for payment to the vendor of an agreed fixed fee in addition to reimbursement of allowable incurred costs. The fee is established at the time of contract award and does not vary if the actual cost of contract performance is greater or less than the initial estimated cost established for such work. Thus, the fee is fixed but not the contract amount because the final contract amount will depend on the allowable costs reimbursed. The fee is subject to adjustment only if the contract is modified to provide for an increase or decrease in the scope of work specified in the contract.
 - 4) Cost Incentive Contracts
 - A) General. A cost-incentive type of contract provides for the reimbursement to the vendor of allowable costs incurred up to the ceiling amount and establishes a formula whereby the vendor is rewarded for performing at less than target cost (that is, the parties' agreed best estimate of the cost of performing the contract will vary inversely with the actual, allowable costs of performance and consequently is dependent on how effectively the vendor controls cost in the performance of the contract).
 - B) Fixed-Price Cost-Incentive Contract. In a fixed-price cost-incentive contract, the parties establish at the outset a target cost, a target profit (that is, the profit that will be paid if the actual cost of performance equals the target cost), a formula that provides a percentage increase or decrease of the target profit depending on whether the actual cost of performance is less than or exceeds the target cost, and a ceiling price. After performance of the contract, the actual cost of performance is arrived at based on the total incurred allowable costs as provided in the

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

contract. The final contract price is then established in accordance with the formula using the actual cost of performance. The final contract price may not exceed the ceiling price. The vendor is obligated to complete performance of the contract, and, if actual costs exceed the ceiling price, the vendor suffers a loss.

- C) Cost-Reimbursement Contract with Cost-Incentive Fee. In a cost-reimbursement contract with cost-incentive fee, the parties establish at the outset a target cost; a target fee; a formula for increase or decrease of fee depending on whether actual cost of performance is less than or exceeds the target cost, with maximum and minimum fee limitations; and a cost ceiling that represents the maximum amount that the State is obligated to reimburse the vendor. The vendor continues performance until the work is complete or costs reach the ceiling specified in the contract, including any modification thereof, whichever first occurs. After performance is complete or costs reach the ceiling, the total incurred, allowable costs reimbursed as provided in the contract are applied to the formula to establish the incentive fee payable to the vendor.

- e) Performance Incentive Contracts
1) In a performance incentive contract, the parties establish at the outset a pricing basis for the contract, performance goals, and a formula that varies the profit or the fee if the specified performance goals are exceeded or not met. For example, early completion may entitle the vendor to a bonus, while late completion may entitle the State to a price decrease.

- f) Time and Materials Contracts; Labor Hour Contracts
Time and materials contracts provide an agreed basis for payment for materials supplied and labor performed. Labor hour contracts provide only for the payment of labor performed. Such contracts shall, to the extent possible, contain a stated ceiling or an estimate that shall not be exceeded without prior State approval.

- g) Definite Quantity and Indefinite Quantity Contracts

- 1) Definite Quantity. A definite quantity contract is a fixed-price contract that provides for delivery of a specified quantity of supplies or services either at specified times or when ordered.
2) Indefinite Quantity. An indefinite quantity contract is a contract for an indefinite amount of supplies or services to be furnished at specified times, or as ordered, that establishes unit prices of a fixed-price type. Generally an approximate quantity or the best information available as to quantity is stated in the solicitation. The contract may provide a minimum quantity the State is obligated to order and may also provide for a maximum quantity provision that limits the State's obligation to order.

- 3) Requirements Contracts. A requirements contract is an indefinite

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

quantity contract for supplies or services that specifically obligates the State to order all the actual requirements of designated State agencies during a specified period of time.

- h) Leases
A lease is a contract for the use of supplies or real property under which title will not pass to the State at any time, except pursuant to an option to purchase.

- i) Recovery Contracts

Contracts may provide for payment to the vendor of a percentage of the amount the vendor recovers or collects on behalf of the State. The percentage may be fixed or may vary depending on amount of recovery or other factors, and the percentage may be paired with a fixed price or cost reimbursement method.

- j) Option Provisions

- 1) Contract Provision. When a contract is to contain an option for renewal, extension, or purchase, notice of such provision shall be included in the solicitation. These options may be exercised without taking other procurement action when the option is established for exercise at the State's option.

- 2) Lease with Purchase Option. A purchase option in a lease may be exercised only if the lease containing the purchase option was awarded under competitive sealed bidding or competitive sealed proposals, the leased supply or facility is the only supply or facility that can meet the State's requirements, the purchase option price is less than the small purchase limit or emergency conditions exist.

- k) State Produced Supplies and Services
Notwithstanding any provision in any contract, supplies or services available from the State's own programs, such as Correctional Industries, may be ordered without violating any contract.

- l) Extraordinary Quantities
Notwithstanding any provision in any contract, the State reserves the right to take bids separately if a particular quantity requirement arises that exceeds the State's normal needs or ordering requirements.

- m) Energy Conservation

The CPO may authorize an IFB, RFP or sole source negotiation for energy conservation measures whereby the State would make payment based on utility cost savings. Such contract shall require a clearly defined baseline of energy usage and method of measuring cost savings taking into account at least differing weather conditions, changes in facility, usage and cost of energy.

- n) Sale of Advertising in State Publications

- 1) Pursuant to Section 20-110 of the Code, a Procurement Officer may sell ads or advertising space in certain State publications.
2) These arrangements shall be made pursuant to specifications included in an IFB or, if appropriate, an RFP.
3) The advertising in, or authorized use of, State publications shall be appropriate to the type of publication and the program

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- operations of the agency.
- 4) This procedure is authorized in conjunction with, for example, publications that promote tourism, conservation, recycling and the State fairs. The Secretary of State and not a designee must concur in writing to accept advertising from a person the agency regulates.
 - 5) Proceeds from the sale of the advertisements shall be paid as stated in the IFB or RFP, including, but not limited to, the following:
 - A) to the General Revenue Fund;
 - B) to a special fund authorized to receive the proceeds;
 - C) as free or additional copies; or
 - D) directly to the printer by the advertiser.

SUBPART J: DURATION OF CONTRACTS

Section 2000.2060 Duration of Contracts - General
EMERGENCY

- a) General
 - 1) A multi-term contract for a term up to 10 years is authorized when determined by the Procurement Officer to be in the best interest of the State.
 - 2) The length of the payment term of bonds issued by or on behalf of a State agency shall be limited as provided in the statute authorizing the issuance of the bonds.
 - 3) A software license may have a term longer than 10 years, including for a perpetual term, provided the payment term is limited to no more than 10 years.
- b) The contractual obligation of both parties in each fiscal period succeeding the first is subject to appropriation and availability of funds. The contract shall provide that, in the event that funds are not available for any succeeding fiscal period, the remainder of such contract shall be canceled without penalty to, or further payment being required by, the State. This provision applies to only those contracts that are funded in whole or in part by funds appropriated by the Illinois General Assembly or other governmental entity.
- c) Conditions for Use of Multi-Term Contracts
 - A) A multi-term contract may be used when:
 - 1) special production of definite quantities or the furnishing of long-term services is required to meet State needs; or
 - 2) a multi-term contract will serve the best interests of the State by encouraging effective competition or otherwise promoting economies in State procurement. The following factors are among those relevant to such a determination:
 - A) firms that are not willing or able to compete because of high start-up costs or capital investment in facility expansion will be encouraged to participate in the

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- competition when they are assured of recouping such costs during the period of contract performance;
- B) lower production costs because of larger quantity of service requirements, and substantial continuity of production or performance over a longer period of time, can be expected to result in lower unit prices;
 - C) stabilization of the vendor's work force over a longer period of time may promote economy and consistent quality; or
 - D) the cost and burden of contract solicitation, award, and administration of the procurement may be reduced.
- d) Multi-Term Contract Procedure

The solicitation shall state:

 - 1) the proposed term;
 - 2) the amount of supplies or services required for the proposed contract period;
 - 3) the type of pricing requested (e.g., firm for term);
 - 4) how award will be determined.
 - e) Renewals
 - 1) When the original procurement specifically called for an initial term plus renewals, the renewals may be exercised without further procurement activity, provided the initial term and the exercised renewals may not exceed 10 years, the terms and conditions do not change except as provided in the contract (such as price escalations tied to an index) and the option is reserved solely to the State. A renewal option that requires modification to a material term or condition of the contract shall be treated as a new contract and shall be subject to competitive procurement procedures established by the Code and this Part.
 - 2) When the original procurement was silent as to renewals, the renewal must be procured using one of the methods of source selection authorized by the Code and this Part. This renewal shall start a new term not to exceed 10 years.
 - 3) Where a renewal will result in the total term, counting the initial term and any previous renewals, to exceed 10 years, the renewal must be procured using one of the methods of source selection authorized by the Code and this Part. This renewal will start a new term that shall not exceed 10 years.

SUBPART K: CONTRACT MATTERS

Section 2000.2560 Prevailing Wage
EMERGENCY

- a) For the following classifications and if competition exists, no bidder will be awarded a contract unless its employees are paid wages and benefits and are working under conditions prevalent in the location where the work is to be performed.

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- 1) Public works
- 2) Printing
- 3) Janitorial services, window washing and security guard services having a monthly contract price of \$200 or a yearly price of \$2,000.
- b) Prevailing wage and conditions prevalent means the hourly wage rate, overtime, holiday pay, pension, welfare, premium differential, vacation pay and other benefits received by employees and the environmental conditions under which they work.
- c) Prevailing Wage Rates
 - 1) Prevailing wage rates, benefits and conditions will be those in effect on the first date of the contract, provided that, if the rate changes during the contract term and the amount of change is known before execution of the contract, then the contract rate will vary in like amount.
 - 2) If the change in the collective bargaining agreement cannot be determined in advance, the contract will be changed by the amount of the change in wage rate and all components of price that are dependent on the usage rate, such as payroll taxes, worker's compensation insurance, vacation, sick days, and pension, provided that profit shall not increase due to prevailing wage increases. The SPO shall have the option to cancel the contract if the new price is unacceptable.
 - 3) If the initial prevailing wage, etc., cannot be determined prior to execution, contracts may be entered into and will remain valid for the stated term.
- d) If a collective bargaining agreement is in effect governing the type of printing, janitorial, window washing or security guard service sought, that agreement will define minimum wages, benefits and conditions that must be paid in order for a bidder to be considered responsible.
- e) For public works, location means the county where the physical work upon public works is performed, except that if there is not available in the county a sufficient number of competent skilled laborers, workers and mechanics to construct the public works efficiently and properly, "locality" includes any other county nearest the one in which the work or construction is to be performed and from which such persons may be obtained in sufficient numbers to perform the work.
- f) For printing contracts, location means one of the following areas:
 - 1) Cook County;
 - 2) Boone, Bureau, Carroll, Champaign, DeKalb, DeWitt, DuPage, Ford, Fulton, Grundy, Hancock, Henderson, Henry, Iroquois, Jo Daviess, Kane, Kankakee, Kendall, Knox, Lake, LaSalle, Lee, Livingston, Logan, Marshall, Mason, McDonough, McHenry, McLean, Mercer, Ogle, Peoria, Piatt, Putnam, Rock Island, Schuyler, Stark, Stephenson, Tazewell, Vermilion, Warren, Whiteside, Will, Winnebago, and Woodford counties;
 - 3) Adams, Alexander, Bond, Brown, Calhoun, Cass, Christian, Clark,

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- Clay, Clinton, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Gallatin, Greene, Hamilton, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Macon, Macoupin, Madison, Marion, Massac, Menard, Monroe, Montgomery, Morgan, Moultrie, Perry, Pike, Pope, Pulaski, Randolph, Richland, Saline, Sangamon, Scott, Shelby, St. Clair, Union, Wabash, Washington, Wayne, White, and Williamson counties.
- 4) Where the printing is performed in a plant outside the jurisdiction of this State, it shall be deemed produced in the Illinois locality in which delivery of the printing ordered is required to be made. Where such printing is required to be delivered to more than one Illinois locality, such printing shall be deemed produced in the Illinois locality to which the largest dollar volume of printing under the contract is to be delivered.
 - g) For janitorial services, window washing and security guard services, location means the county in which the work is to be performed.
 - h) Prevailing wages, benefits and conditions will be determined by the Illinois Department of Labor.

Section 2000.2570 Equal Employment Opportunity: Affirmative Action EMERGENCY

- a) Public Contracts. Every party to a public contract and every eligible bidder shall:
 - 1) Refrain from unlawful discrimination and discrimination based on citizenship status in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination;
 - 2) Comply with the procedures and requirements of the Department of Human Rights' (DHR) regulations concerning equal employment opportunities and affirmative action;
 - 3) Provide such information, with respect to its employees and applicants for employment, and assistance as DHR may reasonably request;
 - 4) Have written sexual harassment policies that shall include, at a minimum, the following information:
 - A) the illegality of sexual harassment;
 - B) the definition of sexual harassment under State law;
 - C) a description of sexual harassment, utilizing examples;
 - D) the vendor's internal complaint process, including penalties;
 - E) the legal recourse, investigative and complaint process available through DHR and the Human Rights Commission;
 - F) directions on how to contact DHR and the Commission; and
 - G) protection against retaliation as provided by Section 6-101 of the Illinois Human Rights Act (IHRA) [775 ILCS 5]. A copy of the policies shall be provided to the Department of Human Rights upon request.

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- b) Section 7-105A of the IHRA authorizes the Department of Human Rights to promulgate policies, rules and regulations to implement the provisions of the IHRA applicable to eligible bidders and public contractors. DHR has promulgated rules, 44 Ill. Adm. Code 750, that establish public contractor and eligible bidder duties, obligations, and reporting requirements. These rules require that certain employers register with DHR in order to be eligible for the award of certain public contracts (44 Ill. Adm. Code 750. Appendix A).

SUBPART L: CONTRACT PRICING

Section 2000.2800 All Costs Included
EMERGENCY

The IFB or RFP and any resulting contract should define whether prices cover transportation, transit insurance, delivery, installation, taxes, and any other costs.

SUBPART M: CONSTRUCTION AND CONSTRUCTION RELATED PROFESSIONAL SERVICES

Section 2000.3005 Construction and Construction Related Professional Services
EMERGENCY

Construction and construction-related services are procured by the CPO in accordance with the Secretary of State Act (15 ILCS 305/5) under rules promulgated by the SOS.

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section 2000.4005 Real Property Leases and Capital Improvement Leases
EMERGENCY

Real property leases and capital improvement leases are subject to the requirements of this Part and those in 44 Ill. Adm. Code 5000. In the event of a conflict, 44 Ill. Adm. Code 5000 shall prevail.

SUBPART O: PREFERENCES

Section 2000.4505 Procurement Preferences
EMERGENCY

The procurement preferences identified in Article 45 of the Code must be considered in developing procurement documents, conducting evaluations and drafting contracts.

Section 2000.4510 Resident Bidder Preference
EMERGENCY

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- a) "Illinois resident vendor" as used in this Section means a person authorized to transact business in this State and having a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract was first advertised or announced, including a foreign corporation duly authorized to transact business in this State that has a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract is first advertised or announced.
- b) In breaking a tie, an Illinois resident vendor shall be given the award.
- c) The CPO of DCMS shall maintain a list of states with in-state preference that shall be consulted in all procurements involving out-of-state vendors.

Section 2000.4530 Correctional Industries
EMERGENCY

- a) The SPO shall refer to the listing of the supplies or services available from the Department of Corrections and shall identify those that must be purchased from Corrections.
- b) Those items that must be purchased from Corrections may not be procured from any other source without the express written authorization of the SPO.
- c) Procurement Officers may procure from Corrections without seeking competition or giving public notice.

Section 2000.4535 Sheltered Workshops for the Disabled
EMERGENCY

- a) Use of Sheltered Workshop
 The Procurement Officer may determine to contract with a sheltered workshop on the list maintained by the CPO for DCMS, and may do so without notice or competition.
- b) Pricing Approval
 While notice and competition is not required prior to contracting with a sheltered workshop, prices must be reasonable. Whether a price is reasonable will be determined based upon current market prices, historical prices, prices received by other State agencies for similar supplies or services, the policy of the Code to promote procurements from sheltered workshops, and other such relevant factors.

Section 2000.4540 Gas Mileage
EMERGENCY

- a) Passenger automobile specifications shall require compliance with

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

minimum gas mileage requirements established in Section 45-40 of the Code. Passenger automobiles must achieve at least the minimum average fuel economy in miles per gallon imposed upon manufacturers of vehicles under Title V of the Motor Vehicle Information and Cost Savings Act.

- b) Passenger automobiles that do not meet the minimum gas mileage requirements may not be procured unless and until the SPO makes a written determination that a non-compliant automobile is necessary to carry out the function of the agency and the SPO's determination is signed by the Secretary of State.
- c) If the Secretary of State confirms need for the non-compliant passenger automobile, that vehicle may be procured. Except in the case of a covert vehicle, notice that a non-compliant passenger automobile is being purchased will be placed in the Bulletin along with the reasons for such a decision.
- d) Passenger automobile does not include station wagons, vans, four-wheel drive vehicles, emergency vehicles, or police or fire vehicles.

Section 2000.4545 Small Business

EMERGENCY

- a) Set-Aside
The CPO for DCMS may determine categories of supplies or service procurements that will be set aside for small business. The SPO may contact DCMS to determine whether a particular procurement has been set aside for small business, and, if so, the SOS may honor the set aside to the extent practicable.
- b) Small Business List
The SOS may refer to the list of responsible vendors that meet the criteria of small business. A business that fits the definition of small on the day of bid or proposal opening will be considered small for the duration of the contract.
- c) Required Use
If a Procurement Officer wishes to make a procurement covered by a set-aside designation, the solicitation must note responses are limited to those from responsible small businesses. Bids or proposals received from large businesses will be rejected as nonresponsive.
- d) Withdrawal of Set-Aside
If the Procurement Officer determines that acceptance of the best bid or proposal will result in the payment of an unreasonable price, the Procurement Officer shall reject all bids or proposals and withdraw the designation of small business set-aside for the procurement in question. When a small business set-aside is withdrawn, notification shall be published in the Illinois Procurement Bulletin with an explanation. After withdrawal of the small business set-aside, the procurement shall be conducted in accordance with the limitations of the Code and this Part.

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

e) Criteria for Small Business

Unless the CPO provides a definition for a particular procurement that reflects industrial characteristics, a small business is one:

- 1) Independently owned and operated.
- 2) Not dominant in its field of operations. This means the business does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining dominance, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.
- 3) With annual sales for most recently ended fiscal year no greater than:
 - A) \$7,500,000 for wholesale business;
 - B) \$3,000,000 for construction business; or
 - C) \$1,500,000 for retail business.
- 4) With no more than 250 employees if a manufacturing business.
 - A) A manufacturing business shall calculate how many people it employs by determining its average full-time equivalent employment, based on the number of persons employed on a full-time, part-time, temporary or other basis, for its most recently ended fiscal year.
 - B) If a manufacturing business has been in existence for less than a full fiscal year, its average employment should be calculated for the period through one month prior to the bid or proposal due date.
- 5) If both a wholesaler and a retailer, the combined wholesale and retail annual sales for its most recently completed fiscal year may not exceed \$9,000,000. The retail component may not exceed \$1,500,000 and the wholesale component may not exceed \$7,500,000.
- 6) When computing the size status of a vendor, the number of employees and annual sales and receipts, as applicable, of the vendor and all affiliates shall be included. Concerns are affiliates when either one directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both. In determining whether concerns are independently owned and operated and whether affiliation exists, consideration shall be given to all appropriate factors, including use of common facilities, common ownership and management and contractual arrangements. However, a franchise relationship shall not affect small business status if the franchisee has the right to profit commensurate with ownership and bears the risk of loss or failure.

Section 2000.4570 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

EMERGENCY

- a) Introduction
The Business Enterprise Act for Minorities, Females, and Persons with Disabilities [30 ILCS 575] (Act) sets a goal (minimum 12%) for contracting with businesses owned or controlled by minorities, females, or persons with disabilities.

- b) Goal
The CPO shall establish a goal that at least 12% of the dollar value of State contracts be awarded to minority and female-owned businesses. Of that 12%, five shall be for female-owned businesses, two for businesses owned by persons with disabilities and not-for-profit agencies for the disabled, and the remaining five for other minority-owned businesses, unless these percentages are modified by the Council created under the Act.

- c) Upon direction of the CPO, and pursuant to direction from the Council, the SOS may establish set-asides and other such preferences for vendors certified under that Act.

- d) Certification
Certification procedures are set forth in rules governing the Business Enterprise Act (44 Ill. Adm. Code 10).
- e) List of Certified Businesses

- 1) The CPO for DCMS shall maintain a list of businesses that have been certified.
- 2) The names and addresses of certified vendors shall be made available to the public.

- f) Professional and Artistic Contract Reporting
Business Enterprise Council pursuant to Section 6a of the Business Enterprise Act, shall be reported as follows:

- 1) Notice that an agency intends to enter into a professional and artistic contract shall be given to the Council. Notice may be mailed, hand delivered or given by fax, and must be submitted on the same date that the potential vendor is contacted. If the contract is advertised in the Bulletin, reporting to the Council is not required.
- 2) The notice shall include the agency name and address; contact person; contract reference number; date bid or proposal was first available; return dates and opening dates; term of the contract; services to be provided; special requirements; and dollar value. Notice should be given on the form available from the CPO for DCMS.

SUBPART P: ETHICS

Section 2000.5013 Conflicts of Interest

EMERGENCY

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- a) An individual has a direct pecuniary interest in a contract when the individual is owed a payment or otherwise receives a direct financial benefit in conjunction with performance of a contract, including finders fees and commission payments.
- b) Distributable income means the income of a company after payment of all expenses, including employee salary and bonus, and retained earnings, which is distributed to those entitled to receive a share of such income.
- c) This Section does not apply to contracts with licensed professionals provided such contracts are competitively bid. For purposes of this Section, "bid" means procured pursuant to the competitive procedures identified in Subpart E of this Part.

Section 2000.5015 Negotiations for Future Employment
EMERGENCY

- a) It is unlawful for any person employed in or on a continual contractual relationship with any of the offices or agencies of State government to participate in contract negotiations on behalf of that office or agency with any firm, partnership, association, or corporation with whom that person has a contract for future employment or is negotiating concerning possible future employment. [30 ILCS 500/50-15(a)]
- b) An individual who performs services pursuant to a contract and who meets the requirements of an "employee" as opposed to an independent contractor is in a "continued contractual relationship" from the effective date of the contract until such time as the contract is terminated.
- c) An individual who performs services pursuant to a contract and who meets the requirements of an "independent contractor" as opposed to an "employee" is in a "continual contracted relationship" if the contract term is indefinite, is automatically renewed, is renewable at the individual's option, is renewable unless the State must act to terminate, or has a definite term of at least three months.

Section 2000.5020 Exemptions
EMERGENCY

If the Procurement Officer finds a conflict of interest under Section 50-13 of the Code with the vendor selected for award or contract negotiations, the Procurement Officer shall forward to the CPO the name of the vendor and a description of the proposed contract and of the potential conflict, and shall state why an exemption should be granted. The CPO may exempt named individuals from the prohibitions of Section 50-13 of the Code when, in its judgment, the public interest in having the individual in the service of the State outweighs the public policy evidenced in that Section. [30 ILCS 500/50-20]

Section 2000.5030 Revolving Door

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

EMERGENCY

Effective January 15, 1999, CPOs and SPOs shall maintain their designation for a period of at least two years following the end or revocation of the designation.

Section 2000.5035 Disclosure of Financial Interests and Potential Conflicts of Interest

EMERGENCY

- a) Distributable or distributive income means the income of a company after expenses, including employee salaries and bonuses, and retained earnings, which is distributed to those entitled to receive a share of such income.
- b) Personal services shall be any contract for services subject to this Code, including, by way of example, professional and artistic services, repair services, cleaning and guard services.
- c) "Competitively bid" means a contract let pursuant to Section 20-10 of the Code.
- d) "Subject to federal 10K reporting" means subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934. "10K disclosure" means a report required under Section 13 or 15(d) of the Securities Exchange Act of 1934.
- e) Once a disclosure is made in relation to a particular contract, the disclosure need not be repeated if the contract is amended.
- f) 10K Disclosures
 - 1) Any vendor subject to federal 10K reporting requirements may submit its 10K to the State in satisfaction of the disclosure requirement of Section 50-35(b) of the Code provided the vendor also identifies the specific sections or parts in the 10K disclosure where the State may find information, if any, pertaining to those who have an ownership interest or an interest in the distributable income of the vendor or its parent, or other information that the vendor knows or reasonably should know identifies a potential conflict of interest with the State. If the financial interest or conflict of interest information requested by the State is not in the 10K, but is in a document referenced in the 10K, or in a document that may be submitted to the SEC in conjunction with or in lieu of the 10K, then that additional documentation shall be provided as well.
 - 2) 10K disclosures are available for public review. Any potential conflict of interest identified by the public and brought to the attention of the CPO or SPO shall be investigated.
 - 3) In circumstances where a vendor may submit a 10K disclosure in lieu of the specific disclosure requirements of the Code and for purposes of the Procurement Officer's duty to consider any conflict or potential conflict of interest that may exist, but that is not subject to specific disclosure requirements of the

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

Code and this Part, and that is not personally known by the Procurement Officer, "publicly known or reasonably available to the public" shall consist of information identified by the vendor in the 10K disclosure and any information disclosed pursuant to public review of the 10K disclosure.

SUBPART Q: CONCESSIONS

Section 2000.5310 Concessions

EMERGENCY

- a) A concession is an authorization allowing use of State property for the purpose of making profit, including future profit.
- b) An authorization to allow use of State property by not-for-profit entities is not a concession or lease of State property under Article 53 of the Code.
- c) Proposed concessions, leases or other uses of State property must be coordinated with the State Property Control Act [30 ILCS 605] and rules implementing that Act.

SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

Section 2000.5510 Complaints Against Vendors

EMERGENCY

- a) The purpose of this Section is to document performance of vendors.
- b) Whenever a vendor fails to meet contract requirements, including but not limited to failure to deliver on time or meet specifications, the SOS shall take appropriate action to initiate a complaint to the vendor.
- c) For relatively minor infractions, the SOS may initiate contact by telephone or in person. If not resolved by this action, a written complaint shall be made.
- d) For other infractions, the SOS shall send a written complaint to the vendor detailing the problem. For complaints regarding contracts established by the CPO for DCMS, a form available from the CPO for DCMS shall be used for processing complaints.
- e) A copy of all written complaints and the resolution or status shall be filed with the SPO.

Section 2000.5520 Suspension

EMERGENCY

- a) Application
This Section applies to all debarments or suspensions of vendors from consideration for award of contracts under the Code.
- b) The SPO may suspend a vendor from doing business with the SOS, with one or more agencies, or for specific types of supplies or services.

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

A suspension may be issued upon a showing the vendor violated the Code of this Part, or failed to conform to specifications or terms of delivery.

- c) When the SPO finds cause exists for suspension, a notice of suspension, including a copy of such determination, shall be sent to the suspended vendor. Bids or proposals will not be solicited from the suspended vendor, and, if received, will not be considered during the period of suspension.
- d) A vendor may be suspended for a period of time commensurate with the seriousness of the offense, but for no more than five years. The suspension will be effective seven calendar days after receipt of notice unless an objection is filed. If an objection is filed, suspension would not become effective until the evaluation of the objection is completed.
- e) The SPO may debar a vendor. Debarment is the permanent suspension of a vendor from doing business with the SOS. A debarment may only take place in those instances involving bribery or attempted bribery of a State of Illinois officer or employee, or as otherwise allowed or required by law. Bids or proposals received from the debarred vendor will not be considered.
- f) The SPO shall maintain a master list of all suspensions and debarments. The master list will retain information concerning suspensions and debarments as public records. Such records will be maintained for a period of at least three years following the end of the suspension or debarment. Such public information may be considered in determining responsibility.

Section 2000.5530 Resolution of Contract Controversies EMERGENCY

- a) Authority to Resolve Controversies
The Procurement Officer shall have authority to resolve controversies, but the Secretary of State may set limits on such authority.
- b) Authority of Using Agency
The Procurement Officers have the authority to accept delivery of supplies or services in accordance with contract requirements as satisfactory adjustment of a complaint.
- c) Substitution of Terms/Price Reduction
If the vendor proposes to make an adjustment by:
 - 1) substituting an alternative specification, or
 - 2) reducing the contract price by a certain amount to compensate for some failure to provide full performance under the contract, such proposal must be referred to and approved by the Procurement Officer, but not a designee.
- d) Cancellation for Breach of Contract
In any of the following cases the Procurement Officer shall have the right to terminate or rescind any contract entered into under this Part:
 - 1) the Procurement Officer has the authority to accept delivery of supplies or services in accordance with contract requirements as satisfactory adjustment of a complaint.
 - 2) substituting an alternative specification, or
 - 3) reducing the contract price by a certain amount to compensate for some failure to provide full performance under the contract, such proposal must be referred to and approved by the Procurement Officer, but not a designee.

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- 1) In the event the successful bidder fails to furnish a satisfactory performance bond within the time specified.
- 2) In the event the vendor fails to make delivery at the place or within the time specified in the contract or as ordered by the purchasing agency.
- 3) In the event any supplies or services provided under the contract are rejected (for not meeting specification, not conforming to sample, or not being in good condition when delivered) and are not promptly replaced by the vendor. If there are repeated rejections of the vendor's supplies or services, this shall be grounds for termination or rescission, even though the vendor offers to replace the supplies or services promptly.
- 4) In the event the vendor is guilty of misrepresentation (for example, misbranding of food or drugs) in connection with another contract for the sale of supplies or services to the State such that the vendor cannot reasonably be depended upon to fulfill his obligations as a responsible vendor under any of his contracts with the State.
- 5) In the event the vendor should be adjudged bankrupt; enter into receivership or make a general assignment for the benefit of creditors due to insolvency; disregard laws, rules, or instructions of the Procurement Officer; or act in violation of any provision of the contract; or if the contract conflicts with any statutory or constitutional provision of the State of Illinois or of the United States.
- 6) In the event of any other breach of contract or other unlawful act by the vendor.
 - e) Cancellation for Fraud, Collusion, Illegality, Etc.
The SOS may cancel any contract it established if there is sufficient evidence to show that:
 - 1) The contract was obtained by fraud, collusion, conspiracy, or other unlawful means; or
 - 2) The contract conflicts with any statutory provision of the State of Illinois or of the United States.
 - f) Withholding Money to Compensate State for Damages
If a contract is terminated or rescinded under this Section, the State may deduct from whatever is owed the vendor on that or any other contract an amount sufficient to compensate the State of Illinois for any damages suffered by it because of the vendor's breach of contract or other unlawful act on the vendor's part on which the cancellation is based.
 - g) Damages
The damages for which the State may be compensated as provided in this Section or by a suit on the vendor's performance bond or by other legal remedy shall include, but are not limited to, the following:
 - 1) the additional cost of supplies or services bought elsewhere;
 - 2) cost of repeating the procurement procedure;
 - 3) any expenses incurred because of delay in receipt of supplies or

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- services; and
- 4) any other damages caused by the vendor's breach of contract or unlawful act.

Section 2000.5540 Violation of Law or Rule EMERGENCY

- a) Determination that Solicitation or Award Violates Law
If the CPO or the SPO finds that the solicitation or proposed award is in violation of statute or rule, the CPO or the SPO may cancel the solicitation or proposed award, or make modifications to correct the violation, if such correction may be legally accomplished.
- b) Determination that Contract Violates the Code or this Part
Contracts based on awards or solicitations that were in violation of law shall be terminated at no cost to the State unless statute or rule allows the State to modify, ratify or take other corrective action.
- c) Effect of Declaring a Contract Null and Void
In all cases in which a contract is voided, the State shall endeavor to return those supplies delivered under the contract that have not been used or distributed. No further payments shall be made under the contract.

Section 2000.5550 Protests EMERGENCY

- a) Protest Resolution by the Procurement Officer
An actual or prospective bidder, offeror, or vendor that may be aggrieved in connection with a procurement may file a protest on any phase of solicitation or award, including but not limited to specifications preparation, bid solicitation, or award.
- b) Complaint to Procurement Officer
Complainants should seek resolution of their complaints initially with the SOS. Such complaints may be made verbally or in writing.
- c) Filing of Protest
 - 1) Protests shall be made in writing to the Procurement Officer, if applicable, and shall be filed within 14 days after the protester knows or should have known of the facts giving rise to the protest. A protest is considered filed when physically received by the Procurement Officer. Protests filed after the 14 day period shall not be considered. In regard to a protest regarding specifications, the protest must be received within 14 days after the date the solicitation was issued, and in any event must be received by the State at the designated address before the date for opening of bids or proposals.
 - 2) To expedite handling of protests, the envelope should be labeled "Protest". The written protest shall include as a minimum the following:
 - A) the name and address of the protester;

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

- B) appropriate identification of the procurement, and, if a contract has been awarded, its number;
- C) a statement of reasons for the protest; and
- D) supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time, in which case the expected availability date shall be indicated.
- d) Requested Information; Time for Filing
Any additional information requested by the State shall be submitted within the time periods established by the requesting source in order to expedite consideration of the protest. Failure of the protesting party to comply expeditiously with a request for information by the Procurement Officer may result in resolution of the protest without consideration of that information.
- e) Stay of Procurements During Protest
When a protest has been timely filed and before an award has been made, the Procurement Officer shall make no award of the contract until the protest has been resolved. If timely received but after award, the award shall be revoked without penalty and no award made until the protest has been resolved. In either case the Procurement Officer may make the award or reinstate the award upon a determination that the needs of the State require an immediate award and performance under the contract.
- f) Decision by the Procurement Officer
A decision on a protest shall be made by the Procurement Officer as expeditiously as possible after receiving all relevant, requested information. If a protest is sustained, the available remedies include, but are not limited to, reversal of award and cancellation or revision of the solicitation.
- g) Effect of Judicial or Administrative Proceedings
If an action concerning the protest has commenced in court, the Procurement Officer shall not act on the protest, but shall refer the protest to the SOS Chief Legal Counsel. This Section shall not apply when a court requests, expects, or otherwise expresses interest in the decision of the Procurement Officer.

SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

Section 2000.6010 Supply Management and Dispositions EMERGENCY

- a) Inventory Responsibility
The SOS shall maintain accountability for tangible personal property and other supplies under its control subject to the requirements of the State Property Control Act [30 ILCS 605] and rules implementing that Act.
- b) Supply Management
The SOS shall order supplies on a schedule and in quantities so as to

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

maintain no more than a 12 month supply in inventory. Supplies shall be ordered so as to maintain the minimum inventory commensurate with ability to meet agency needs. This 12-month inventory restriction does not apply to lifesaving medications, mechanical spare parts, or when a greater quantity is needed to meet minimum order quantities.

- c) Inventory
The SOS shall periodically inventory all warehouses and similar storage areas under their jurisdiction.
- d) Report of Inventory
The CPO shall be notified periodically of all supplies in excess of the 12 month restriction on inventory.

SUBPART T: GOVERNMENTAL JOINT PURCHASING

Section 2000.6500 General EMERGENCY

In an effort to make the procurement process more efficient, State and other governmental units may agree to utilize each others' procurement contracts. This authority is governed by this Subpart and the Governmental Joint Purchasing Act [30 ILCS 525].

Section 2000.6510 No Agency Relationship EMERGENCY

In any joint procurement situation, the governmental unit must issue its own purchase order, accept its own deliveries and make its own payments. The State of Illinois shall have no obligation to the vendor for payment of orders placed by other governmental units.

SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section 2000.7000 Severability EMERGENCY

If any provision of this Part or any application thereof is held invalid, such invalidity shall not affect other provisions or applications of this Part that can be given effect without such invalid provision or application.

Section 2000.7010 Government Furnished Property EMERGENCY

If the State provides any property to the vendor in furtherance of the contract, such property shall remain the property of the State but may be consumed by the vendor if necessary to complete the contract. Vendor will issue a receipt for the property and will be responsible for its safekeeping and for return of unused property to the State.

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

Section 2000.7015 Inspections EMERGENCY

a) Inspection of Plant or Site

The State may enter a vendor's or subcontractor's plant or place of business to:

- 1) inspect supplies or services for acceptance by the State pursuant to the terms of a contract;
- 2) audit the books and records of any vendor or subcontractor pursuant to Section 2000.7020 (Records and Audits) of this Part;
- 3) investigate an action to debar or suspend a person from consideration for award of contracts pursuant to the Code;
- 4) determine whether the standards of responsibility have been met or are capable of being met;
- 5) determine if the contract is being performed in accordance with its terms; and
- 6) accomplish any other purpose permitted by law.

b) Inspection and Testing of Supplies and Services

1) Solicitation and Contractual Provisions. State contracts may provide that the State may inspect supplies and services at the vendor's or subcontractor's facility and perform tests to determine whether the supplies or services conform to solicitation requirements, or, after award, to contract requirements, and are therefore acceptable. Such inspections and tests shall be conducted in accordance with the terms of the solicitation and contract.

- 2) Procedures for Trial Use and Testing. The Procurement Officers may establish operational procedures governing the testing and trial use of equipment, material, and other supplies, and the application of resulting information and data to specifications or procurements.

c) Conduct of Inspections

- 1) Inspectors. Inspections or tests shall be performed so as not to unduly delay the work of the vendor or subcontractor. No inspector other than the Procurement Officer may change any provision of the specifications or the contract without written authorization of the Procurement Officer. The presence or absence of an inspector shall not relieve the vendor or subcontractor from any requirements of the contract.
- 2) Location. When an inspection is made in the plant or place of business of a vendor or subcontractor, such vendor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.
- 3) Time. Inspection or testing of supplies and services performed at the plant or place of business of any vendor or subcontractor shall be performed at reasonable times.
- d) Inspection of Construction Projects

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

On-site inspection of construction shall be performed in accordance with the terms of the contract.

Section 2000.7020 Records and Audits

EMERGENCY

- a) Retention of Books and Records
Books and records that relate to performance of a State contract, including subcontracts, and that support amounts charged to the State, shall be maintained:
 - 1) by a vendor, for three years from the date of final payment under the prime contract;
 - 2) by a subcontractor, for at least three years from the date of final payment under the subcontract; and
 - 3) by a vendor and subcontractor for such longer period of time as is necessary to complete ongoing or announced audits.
- b) Contract Audit
 - 1) Types of Contracts Audited. The type of contract under which books and records should be audited is that in which price is based on costs or is subject to adjustment based on costs, or that in which auditing would be appropriate to assure satisfactory performance, such as a time and materials contract.
 - 2) Situations in which an audit may be warranted include but are not limited to when a question arises in connection with:
 - A) the financial condition, integrity, and reliability of the vendor or subcontractor;
 - B) any prior audit experience;
 - C) the adequacy of the vendor's or subcontractor's accounting system;
 - D) the number or nature of invoices or reimbursement vouchers submitted by the vendor or subcontractor for payment;
 - E) the use of federal assistance funds;
 - F) the fluctuation of market prices affecting the contract; or
 - G) any other situation in which the Procurement Officer finds that such an audit is necessary for the protection of the State's best interest.

Section 2000.7025 Written Determinations

EMERGENCY

- a) Preparation and Execution
When the Code or this Part requires a written determination, the officer required to prepare the determination may delegate its preparation, but the responsibility for and the execution of the determination shall not be delegated.
- b) Content
Each written determination shall set out sufficient facts, circumstances, and reasoning as will substantiate the specific

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

determination that is made.

- c) Obtaining Supporting Information
While an officer is responsible for the execution of the written determination, other State personnel, particularly technical personnel and appropriate personnel, are responsible for furnishing to the cognizant official, in an accurate and adequate fashion, the information pertinent to the determination. When requested, such information shall be furnished in writing to the cognizant official who shall have the authority to decide the final form and content of the determination and to resolve any questions or conflicts arising with respect to the determination.
- d) Forms
The SPO is authorized to prescribe methods and operational procedures to be used in preparing written determinations.
- e) Retention
Each written determination shall be filed in the solicitation or contract file to which it applies, shall be retained as part of such file for so long as the file is required to be maintained, and, except as otherwise provided by statute or rule, shall be open to public inspection.

Section 2000.7030 No Waiver of Sovereign Immunity
EMERGENCY

Nothing in this Part shall be deemed to be a waiver of sovereign immunity.

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION

PURSUANT TO 415 ILCS 5/28.1(d)(3)

Section 28.1(d)(3) of the Environmental Protection Act (415 ILCS 5/28.1(d)(3) (1996)) requires the Board to annually publish the *Illinois Register* and *Environmental Register* a listing of all determinations made pursuant to Section 28.1 at the end of each fiscal year. This notice sets forth all adjusted standard and combine sewer overflow exception determinations made by the Board during the fiscal year 1998 (July 1, 1997, through June 30, 1998).

Final Actions taken by the Pollution Control Board in Adjusted Standards Proceedings During the Fiscal Year 1998 (July 1, 1997, through June 30, 1998)

Docket/Docket TitleFinal Determination

AS 94-006: In the Matter of: Petition of Hydrosol, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 218.Subpart DD

On December 18, 1997, the Board dismissed the petition for an adjusted standard from the volatile organic emission air standards for aerosol can filling operations filed on behalf of this Cook County facility. The Board found that the petition was deficient as of March 3, 1994, and no other filings were received by the Board in over three years.

AS 96-006: In the Matter of: Petition of Amoco Oil Company for an Adjusted Standard from 35 Ill. Adm. Code 721.Subpart D

On December 18, 1997, the Board denied the petition for an adjusted standards from hazardous waste listing and identification regulations for dissolved air flotation floats under 35 Ill. Adm. Code 721.132 filed on behalf of this Madison County refinery. The Board found that petitioner did not follow the specified procedures in testing demonstration samples and therefore did not meet the requirements for the requested hazardous waste delisting.

AS 97-002: In the Matter of: Petition of Chemetco, Inc. for an Adjusted Standard from 35

On March 9, 1998, the Board defined the petition for an adjusted standard from certain

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION

PURSUANT TO 415 ILCS 5/28.1(d)(3)

Ill. Adm. Code 720.131(a) and (c)

solid waste listing and identification regulations filed on behalf of this Madison County facility for 40,000 tons of zinc oxide material. The Board found that petitioner failed to provide sufficient evidence in support of the requested solid waste delisting.

AS 97-005: In the Matter of: Petition of the Louis Berkman Company, d/b/a The Swenson Spreader Company, for an Adjusted Standard from 35 Ill. Adm. Code 215.Subpart F

On May 7, 1998, the Board granted petitioner an adjusted standard from regulations that limit the amount of volatile organic material that may be contained in coatings it applies to products manufactured at its Ogle County facility. The adjusted standard will terminate on May 7, 2008.

AS 97-006: In the Matter of: Petition of Granite City Steel for an Adjusted Standard from 35 Ill. Adm. Code 302.212 and 302.213, Water Quality Standards Relating to Ammonia

On May 21, 1998, the Board granted voluntary withdrawal of this petition filed on behalf of this Madison County facility for an adjusted standard from certain water quality standards relating to its ammonia discharges from its volatile treatment plant.

AS 97-008: In the Matter of: Petition of Southern Illinois Regional Landfill, Inc. (SIRLL) for an Adjusted Standard from 35 Ill. Adm. Code 811.309

On July 10, 1997, the Board granted this Jackson County landfill and adjusted standard, with conditions, from certain leachate treatment and disposal system regulations.

AS 97-010: In the Matter of: Petition of Waste Professionals, Inc., d/b/a Pekin Landfill, for an Adjusted Standard from 35 Ill. Adm. Code 814.Subpart D

On February 19, 1998, the Board granted this Taxewell County landfill an adjusted standard, with conditions, from certain permitting and other requirements regarding

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION
PURSUANT TO 415 ILCS 5/28.1(d)(3)

closure of landfills. In accordance with the Board order, petitioner must begin closure of the landfill no later than November 18, 1998.

AS 97-011: In the Matter of: Petition of the Greater Rockford Airport Authority for an Adjusted Standard from 35 Ill. Adm. Code 814.Subpart D

On May 7, 1998, the Board granted voluntary withdrawal of this petition filed on behalf of a Winnebago County facility for an adjusted standard for its landfill.

AS 98-001: In the Matter of: Petition of Carus Chemical Company for an Adjusted Standard from 35 Ill. Adm. Code 814.Subpart D

On September 18, 1997, the Board granted LaSalle County facility an adjusted standard, with condition, from certain permitting and other requirements regarding closure of landfills. In accordance with the Board order, petition may not accept any waste on or after March 18, 1999.

SA 98-005: In the Matter of: Petition of the Metropolitan Water Reclamation District of Greater Chicago for an Adjusted Standard from 35 Ill. Adm. Code 811, 812, and 817 (Sludge Application)

On May 7, 1998, the Board dismissed the petition for an adjusted standard as petitioner's requested relief is duplicative of an adjusted standard previously granted by the Board in In the Matter of: Petition of the Metropolitan Water Reclamation District of Greater Chicago for an Adjusted Standard from 35 Ill. Adm. Code 811, 812, and 817 (Sludge Application) AS 95-4, August 25, 1995.

SA 007: In the Matter of: Petition of the City of Belleville, Illinois for an Adjusted Standard from 35 Ill. Adm. Code 306.305

On June 18, 1998, the Board granted voluntary withdrawal of this petition filed on behalf of a St. Clair County facility for an adjusted standard. The petition sought relief from the disinfection requirement for excess flows

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION
PURSUANT TO 415 ILCS 5/28.1(d)(3)

discharged from one of its lift stations.

Final Actions Taken by the Pollution Control Board in Combine Sewer Overflow Exception Proceedings During Fiscal Year 1998 (July 1, 1997, through June 30, 1998)

The Board took no action in combined sewer overflow exception proceedings during fiscal year 1998.

Addresses written comments or request copies, noting the appropriate docket number to:

Name: Dorothy Gunn, Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
Telephone: 312/814-3620

Address questions concerning this notice, noting the appropriate docket number, to:

Name: Amy Muran Felton, Attorney
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
Telephone: 312/814-8011
Internet: amuranfe@pcb084rl.state.il.us

DEPARTMENT OF AGRICULTURE

JULY 1998 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Swine Disease Control and Eradication Act, 8 Ill. Adm. Code 105

1) Rulemaking:

A) Description: The Department will amend the definition of site tattoo in Section 105.5 to include a slap tattoo. Sections 105.10(b)(6) and 105.30(b)(7) will be amended to adopt the 1998 Pseudorabies Eradication State-Federal-Industry Program Standards. Section 105.30 will also be amended to recognize split state status for states that are Stage III and above, and "ear tag" will be changed to an "approved ear tag". The 1998 edition of the Swine Brucellosis Control/Eradication, State-Federal-Industry Uniform Methods and Rules, will be adopted in 105.30. Imported breeding swine from Stage III States and below will have to be retested for pseudorabies within 21 to 60 days post importation. In Section 105.90, the age restriction for brucellosis testing of feral swine will be removed, and feral swine will have to be retested for pseudorabies within 21 to 60 days post importation.

B) Statutory Authority: Illinois Swine Disease Control and Eradication Act [510 ILCS 100], the Illinois Pseudorabies Control Act [510 ILCS 90] and the Illinois Swine Brucellosis Eradication Act [510 ILCS 95]

C) Scheduled meeting/hearing date: Proposed amendments to this Part must be approved by the Advisory Board of Livestock Commissioners. This advisory board will meet in mid-October, and a public hearing on the proposed rulemaking will run concurrently with the public meeting of the advisory board. Written comments may also be submitted during the 45-day public comment period following publication of the proposed rulemaking in the Illinois Register.

D) Date Agency anticipates First Notice: September 4, 1998

E) Effect on small businesses, small municipalities or not for profit corporations: There will be a minor effect on swine producers and veterinarians engaged in swine practice. Recognition of split state status will eliminate the necessity of some post-entry testing for Illinois producers. Recognition of the slap tattoo will make it easier for swine producers to move animals interstate. Feral swine regulations will be made uniform for testing requirements.

F) Agency contact person for information

Dr. Richard Hull
Illinois Department of Agriculture

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1. Statute requiring agency to publish information concerning interest rate information in the Illinois Register:

Name of Act: Uniform Penalty and Interest Act
Citation: 35 ILCS 735/3-1

2. Summary of information:

Section 3-2(a) of the Uniform Penalty and Interest Act provides that interest paid by the Department of Revenue and interest charged to taxpayers by the Department shall be paid at the annual rate determined by the Department. That rate is the underpayment rate established under Section 6621 of the Internal Revenue Code.

Section 3-2(b) of the UPIA states that the interest rate shall be adjusted on a semiannual basis, on January 1 and July 1, based upon the underpayment rate going into effect on that January 1 or July 1 under Section 6621 of the Internal Revenue Code.

Recently, in Revenue Ruling 97-32 the Internal Revenue Service announced that the underpayment rate will be 8% for the period beginning July 1, 1998. Therefore, the interest rate paid by the Illinois Department of Revenue and the interest rate charged to taxpayers by the Illinois Department of Revenue will be 8% from July 1, 1998 through December 31, 1998.

3. Name and address of person to contact concerning this information:

Paul Caselton
Associate Chief Counsel (Income Tax)
Legal Services Office
Illinois Department of Revenue
101 W. Jefferson
Springfield, Illinois 62794
(217) 782-7055

DEPARTMENT OF AGRICULTURE

JULY 1998 REGULATORY AGENDA

P.O. Box 19281
Springfield, IL 62794-9281
217/782-4944
FAX: 217/524-7702

G) Related rulemakings and other pertinent information: None

b) Part(s) (Heading and Code Citation): Bovine Brucellosis, 8 Ill. Adm. Code 75

1) Rulemaking:

A) Description: The restriction of the use of RB-51 vaccine in Section 75.60 will be lifted. All cites to the Code of Federal Regulations (CFR) in Sections 75.5, 75.10 and 75.120 will be updated to the 1998 edition. "Livestock auction market" or "marketing center", depending on the context, is being added to Sections 75.70, 75.80, 75.160. Illinois cattle will be exempt from the health certificate requirement when moving through an auction market in Section 75.160.

B) Statutory Authority: Illinois Bovine Brucellosis Eradication Act [510 ILCS 30]

C) Scheduled meeting/hearing date: Proposed amendments to this Part must be approved by the Advisory Board of Livestock Commissioners. This advisory board will meet in mid-October, and a public hearing on the proposed rulemaking will run concurrently with the public meeting of the advisory board. Written comments may also be submitted during the 45-day public comment period following publication of the proposed rulemaking in the *Illinois Register*.

D) Date Agency anticipates First Notice: September 4, 1998

E) Effect on small businesses, small municipalities or not for profit corporations: The changes in the CFR cites will have no effect on small businesses. Buffalo producers will now be able to vaccinate their animals with RB-51 vaccine. Illinois producers will be saved the expense of the health certificate for cattle moving through auction markets.

F) Agency contact person for information:

Dr. Richard Hull
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281

DEPARTMENT OF AGRICULTURE

JULY 1998 REGULATORY AGENDA

217/782-4944
FAX: 217/524-7702

G) Related rulemakings and other pertinent information: None

c) Part(s) (Heading and Code Citation): Hatcheries, Poultry Flocks, and Produce Thereof, 8 Ill. Adm. Code 55

1) Rulemaking:

A) Description: Sections 55.10, 55.40, 55.45, 55.50 and 55.90 will have the cites to the Code of Federal Regulations updated to the 1998 edition.

B) Statutory Authority: Poultry Inspection Act [510 ILCS 85]

C) Scheduled meeting/hearing date: Proposed amendments to this Part must be approved by the Advisory Board of Livestock Commissioners. This advisory board will meet in mid-October, and a public hearing on the proposed rulemaking will run concurrently with the public meeting of the advisory board. Written comments may also be submitted during the 45-day public comment period following publication of the proposed rulemaking in the *Illinois Register*.

D) Date Agency anticipates First Notice: September 4, 1998

E) Effect on small businesses, small municipalities or not for profit corporations: No adverse impact is anticipated.

F) Agency contact person for information:

Dr. Richard Hull
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281
217/782-4944
FAX: 217/524-7702

G) Related rulemakings and other pertinent information: None

d) Part(s) (Heading and Code Citation): Definitions, 8 Ill. Adm. Code 20

1) Rulemaking:

A) Description: The definition of feeder female cattle and feeder swine will be clarified. The definition of health certificate

DEPARTMENT OF AGRICULTURE

JULY 1998 REGULATORY AGENDA

will be amended to require the complete mailing address of both the consignor and the consignee. Cites to the Code of Federal Regulations will be updated to the 1998 edition. The definition of "State inspector" will be amended to reflect the title currently in use by the Department. The reference to National Stockyards is being deleted as it has closed.

- B) Statutory Authority: Implementing and authorized by Section 15 of the Illinois Swine Disease Control and Eradication Act [510 ILCS 100/15]; Section 15 of the Illinois Feeder Swine Dealer Licensing Act [225 ILCS 620/15]; Section 15 of the Illinois Livestock Dealer Licensing Act [225 ILCS 645/15]; Section 18 of the Illinois Bovidae and Cervidae Tuberculosis Eradication Act [510 ILCS 35/18]; Section 10 of the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30/10]; Section 7 of the Illinois Swine Brucellosis Eradication Act [510 ILCS 95/7]; Section 12 of the Illinois Dead Animal Disposal Act [225 ILCS 610/12]; Section 2 of the Illinois Diseased Animals Act [510 ILCS 50/2]; Sections 8a and 11 of the Livestock Auction Market Law [225 ILCS 640/8a and 11]; Section 2.3 of the Poultry Inspection Act [510 ILCS 85/2.3]; Section 5 of the Illinois Pseudorabies Control Act [510 ILCS 90/5].

- C) Scheduled meeting/hearing date: Proposed amendments to this Part must be approved by the Advisory Board of Livestock Commissioners. This advisory board will meet in mid-October, and a public hearing on the proposed rulemaking will run concurrently with the public meeting of the advisory board. Written comments may also be submitted during the 45-day public comment period following publication of the proposed rulemaking in the *Illinois Register*.

- D) Date Agency anticipates First Notice: September 4, 1998

- E) Effect on small businesses, small municipalities or not for profit corporations: No adverse impact is anticipated.

- F) Agency contact person for information:

Dr. Richard Hull
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281
217/782-4944
FAX: 217/524-7702

- G) Related rulemakings and other pertinent information: None

- e) Part(s) (Heading and Code Citation): Illinois Pseudorabies Control Act [8

DEPARTMENT OF AGRICULTURE

JULY 1998 REGULATORY AGENDA

Ill. Adm. Code 115]

1) Rulemaking:

- A) Description: The cites to the Code of Federal Regulations will be updated to 1998 in Sections 115.10 and 115.100. The current edition of the Pseudorabies Eradication State-Federal-Industry Program Standards will be adopted in Section 115.80. The testing requirements for establishing a qualified pseudorabies negative herd without a complete herd test will be amended in Section 115.40(a)(4).

- B) Statutory Authority: Illinois Pseudorabies Control Act [510 ILCS 90]

- C) Scheduled meeting/hearing date: Proposed amendments to this Part must be approved by the Advisory Board of Livestock Commissioners. This advisory board will meet in mid-October, and a public hearing on the proposed rulemaking will run concurrently with the public meeting of the advisory board. Written comments may also be submitted during the 45-day public comment period following publication of the proposed rulemaking in the *Illinois Register*.

- D) Date Agency anticipates First Notice: September 4, 1998

- E) Effect on small businesses, small municipalities or not for profit corporations: No adverse impact is anticipated.

- F) Agency contact person for information:

Dr. Richard Hull
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281
217/782-4944
FAX: 217/524-7702

- G) Related rulemakings and other pertinent information: None

- f) Part(s) (Heading and Code Citation): Swine Brucellosis, 8 Ill. Adm. Code 100

1) Rulemaking:

- A) Description: The cites to the Code of Federal Regulations will be updated to the 1998 edition in Section 100.30

DEPARTMENT OF AGRICULTURE

JULY 1998 REGULATORY AGENDA

- B) Statutory Authority: Illinois Swine Brucellosis Eradication Act [510 ILCS 95]; Illinois Pseudorabies Control Act [510 ILCS 90]; and Illinois Diseased Animals Act [510 ILCS 50]
- C) Scheduled meeting/hearing date: Proposed amendments to this Part must be approved by the Advisory Board of Livestock Commissioners. This advisory board will meet in mid-October, and a public hearing on the proposed rulemaking will run concurrently with the public meeting of the advisory board. Written comments may also be submitted during the 45-day public comment period following publication of the proposed rulemaking in the *Illinois Register*.
- D) Date Agency anticipates First Notice: September 4, 1998
- E) Effect on small businesses, small municipalities or not for profit corporations: No adverse impact is anticipated.

F) Agency contact person for information:

Dr. Richard Hull
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281
217/782-4944
FAX: 217/524-7702

G) Related rulemakings and other pertinent information: None

- g) Part(s) (Heading and Code Citation): Feeder Swine Dealer Licensing, 68 Ill. Adm. Code 590

1) Rulemaking:

- A) Description: Section 590.60 will be clarified that Department inspectors have the right to make photo copies of necessary records.
- B) Statutory Authority: Illinois Feeder Swine Dealer Licensing Act [225 ILCS 620]
- C) Scheduled meeting/hearing date: Proposed amendments to this Part must be approved by the Advisory Board of Livestock Commissioners. This advisory board will meet in mid-October, and a public hearing on the proposed rulemaking will run concurrently with the public meeting of the advisory board. Written comments may also be submitted during the 45-day public comment period following publication of the proposed rulemaking in the *Illinois Register*.

DEPARTMENT OF AGRICULTURE

JULY 1998 REGULATORY AGENDA

- D) Date Agency anticipates First Notice: September 4, 1998
- E) Effect on small businesses, small municipalities or not for profit corporations: No adverse impact is anticipated.

F) Agency contact person for information:

Dr. Richard Hull
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281
217/782-4944
FAX: 217/524-7702

G) Related rulemakings and other pertinent information: None

- h) Part(s) (Heading and Code Citation): Diseased Animals, 8 Ill. Adm. Code 85

1) Rulemaking:

- A) Description: The Department will adopt a definition for the term "exposed to" in Section 85.5. Cites to the Code of Federal Regulations will be updated to 1998 in Sections 85.5, 85.15, 85.75, and 85.115. Several diseases may be added to Sections 85.10 and 85.12 pending the outcome of national meetings addressing reportable, contagious or infectious diseases that are being held this summer. The term "auction market" is being added to Sections 85.20 and 85.100. The Voluntary Scrapie Flock Certification Program Standards will be adopted in Section 85.55, and restrictions on scrapie infected flocks considered. Restrictions on sheep with club lamb fungus (sheep ringworm) will be added in 85.80. An exemption for animals exposed to animals infected with John's disease will be added to Section 85.85(d). A requirement of a health certificate for cervidae entering Illinois will be added to Section 85.120, along with the requirement that the animals be identified by individual identification (approved ear tag, tattoo, or microchip). Additional requirements for cervidae may be added to Section 85.120 regarding chronic wasting disease and other cervidae diseases.

- B) Statutory Authority: Illinois Diseased Animals Act [510 ILCS 50], Section 6 of the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30/6], Livestock Auction Market Law [225 ILCS 640] and the Equine Infectious Anemia Control Act [510 ILCS 65]

DEPARTMENT OF AGRICULTURE

JULY 1998 REGULATORY AGENDA

C) Scheduled meeting/hearing date: Proposed amendments to this Part must be approved by the Advisory Board of Livestock Commissioners. This advisory board will meet in mid-October, and a public hearing on the proposed rulemaking will run concurrently with the public meeting of the advisory board. Written comments may also be submitted during the 45-day public comment period following publication of the proposed rulemaking in the *Illinois Register*.

D) Date Agency anticipates First Notice: September 4, 1998

E) Effect on small businesses, small municipalities or not for profit corporations: Sheep breeders will have the opportunity to voluntarily participate in the scrapie herd certification program. If provisions are adopted to restrict movement of scrapie infected flocks, it will disrupt commerce for producers with infected flocks. The exemption for John's exposed animals to move on a negative test will allow cattle producers to have a market for their animals.

F) Agency contact person for information:

Dr. Richard Hull
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281
217/782-4944
FAX: 217/524-7702

G) Related rulemakings and other pertinent information: The Department has an agreement with the Joint Committee on Administrative rules to clarify the meaning of the term "exposed to" by July 1, 1999.

i) Part(s) (Heading and Code Citation): Illinois Bovidae and Cervidae Tuberculosis Eradication Act, 8 Ill. Adm. Code 80

1) Rulemaking:

A) Description: The cite to the Code of Federal Regulations will be updated to 1998 in Section 80.130. Types of identification for cervidae will be updated in Section 80.140, and the change to the Uniform Methods and Rules for Tuberculosis-Free Cervidae Herds that requires two annual herd tests for newly assembled herds on premises where a tuberculosis herd has been depopulated will be adopted.

B) Statutory Authority: Illinois Bovidae and Cervidae Tuberculosis

DEPARTMENT OF AGRICULTURE

JULY 1998 REGULATORY AGENDA

Eradication Act [510 ILCS 35]

C) Scheduled meeting/hearing date: Proposed amendments to this Part must be approved by the Advisory Board of Livestock Commissioners. This advisory board will meet in mid-October, and a public hearing on the proposed rulemaking will run concurrently with the public meeting of the advisory board. Written comments may also be submitted during the 45-day public comment period following publication of the proposed rulemaking in the *Illinois Register*.

D) Date Agency anticipates First Notice: September 4, 1998

E) Effect on small businesses, small municipalities or not for profit corporations: No adverse impact is anticipated.

F) Agency contact person for information:

Dr. Richard Hull
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281
217/782-4944
FAX: 217/524-7702

G) Related rulemakings and other pertinent information: None

j) Part(s) (Heading and Code Citation): Livestock Dealer Licensing, 68 Ill. Adm. Code 610

1) Rulemaking:

A) Description: The requirement to file the M-106 Weekly Report of Out-of-State Livestock Sales will be repealed out of Section 610.10 as it is no longer necessary. In Section 610.50, the requirement for Form M-107 Weekly Report of Sale of Feeder Cattle will be restricted only to imported animals from non-Stage Free states. Section 610.80 will be amended to allow Department inspectors to make photo copies of any and all records. Cattle moving directly from the farm of origin to an auction market or marketing center that have not been commingled with other animals will be allowed to be backtagged at the auction market or marketing center in Section 610.100.

B) Statutory Authority: Illinois Livestock Dealer Licensing Act [255 ILCS 645]

C) Scheduled meeting/hearing date: Proposed amendments to this Part

DEPARTMENT OF AGRICULTURE

JULY 1998 REGULATORY AGENDA

must be approved by the Advisory Board of Livestock Commissioners. This advisory board will meet in mid-October, and a public hearing on the proposed rulemaking will run concurrently with the public meeting of the advisory board. Written comments may also be submitted during the 45-day public comment period following publication of the proposed rulemaking in the *Illinois Register*.

- D) Date Agency anticipates First Notice: September 4, 1998
- E) Effect on small businesses, small municipalities or not for profit corporations: Paperwork will be reduced for livestock dealers with the changes in Section 610.10 and 610.50. Tagging requirements will be made easier for livestock dealers with the change in Section 610.100.
- F) Agency contact person for information:
 Dr. Richard Hull
 Illinois Department of Agriculture
 P.O. Box 19281
 Springfield, IL 62794-9281
 217/782-4944
 FAX: 217/524-7702
- G) Related rulemakings and other pertinent information: None

- k) Part(s) (Heading and Code Citation): Livestock Auction Markets, 8 Ill. Adm. Code 40

1) Rulemaking:

- A) Description: Provisions for selling animals that have been in contact with an animal that was a reactor at the market but were Cite test negative will be added to Section 40.60. Section 40.120 will be amended to limit the feeder cattle subject to quarantine to those originating from non-Stage Free states. The color yellow will be deleted from Section 40.130 as any color crayon or paint will be acceptable. The 1998 edition of the Pseudorabies Eradication State-Federal-Industry Program Standards will be adopted in Section 40.170.

- B) Statutory Authority: Livestock Auction Market Law [225 ILCS 640]
- C) Scheduled meeting/hearing date: Proposed amendments to this Part must be approved by the Advisory Board of Livestock Commissioners. This advisory board will meet in mid-October, and a public hearing on the proposed rulemaking will run concurrently with the public

DEPARTMENT OF AGRICULTURE

JULY 1998 REGULATORY AGENDA

meeting of the advisory board. Written comments may also be submitted during the 45-day public comment period following publication of the proposed rulemaking in the *Illinois Register*.

- D) Date Agency anticipates First Notice: September 4, 1998
- E) Effect on small businesses, small municipalities or not for profit corporations: There will be a reduction in paperwork for auction markets with the changes in Section 40.120.
- F) Agency contact person for information:
 Dr. Richard Hull
 Illinois Department of Agriculture
 P.O. Box 19281
 Springfield, IL 62794-9281
 217/782-4944
 FAX: 217/524-7702

- G) Related rulemakings and other pertinent information: None

- l) Part(s) (Heading and Code Citation): Animal Diagnostic Laboratory Act, 8 Ill. Adm. Code 110

1) Rulemaking:

- A) Description: A fee of \$100 for a cosmetic necropsy for cats and dogs will be set in Section 110.50. The fee for Cytology will be increased to \$12.00 in Section 110.70. A charge for a pseudorabies latex agglutination test of \$3.00 will be added to Section 110.90. The John's ELISA test is being made more affordable in Section 110.90(d). Charges for actinobacillus pleuropneumoniae, mycoplasma hyopneumoniae, caprine arthritis encephalitis and bovine leukemia ELISA are being added to Section 110.90(d). Charges for helminth ova in sludge, giardia/cryptosporidia FA and cryptosporidia ELISA are being added to Section 110.100. A charge for herbicides requiring derivitization is being added to 110.110(e). A charge for feed particle size and total suspended solids is being added to 110.110(h).

- B) Statutory Authority: Animal Disease Laboratories Act [510 ILCS 10]

- C) Scheduled meeting/hearing date: Proposed amendments to this Part must be approved by the Advisory Board of Livestock Commissioners. This advisory board will meet in mid-October, and a public hearing

DEPARTMENT OF AGRICULTURE
JULY 1998 REGULATORY AGENDA

Springfield, IL 62794-9281
217/782-3817
FAX: 217/524-7801

G) Related rulemakings and other pertinent information: None

n) Part(s) (Heading and Code Citation): Egg and Egg Products Act, 8 Ill. Adm. Code 65

1) Rulemaking:

A) Description: The United States Department of Agriculture (USDA) has issued a prohibition on the repackaging of eggs packed under USDA's voluntary grading program. Amendments will be made relating to the enforcement of the Illinois Egg and Egg Products Act to follow USDA's standards that eggs sold for human consumption cannot be repackaged. The rules will be amended to clarify that the 30 day expiration date should be marked on each carton of eggs.

B) Statutory Authority: Illinois Egg and Egg Products Act [410 ILCS 615]

C) Scheduled meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.

D) Date Agency anticipates First Notice: October 1998

E) Effect on small businesses, small municipalities or not for profit corporations: Egg packagers and distributors will not be able to regrade and repack older eggs. It is seldom that eggs are repackaged and resold to consumers. This amendment will insure that eggs being sold for human consumption are fresh.

F) Agency contact person for information:

Sid Colbrook
Illinois Department of Agriculture
P. O. Box 19281
Springfield, IL 62794-9281
217/782-3817
FAX: 217/524-7801

G) Related rulemakings and other pertinent information: None

DEPARTMENT OF AGRICULTURE
JULY 1998 REGULATORY AGENDA

on the proposed rulemaking will run concurrently with the public meeting of the advisory board. Written comments may also be submitted during the 45-day public comment period following publication of the proposed rulemaking in the *Illinois Register*.

D) Date Agency anticipates First Notice: September 4, 1998

E) Effect on small businesses, small municipalities or not for profit corporations: Use of the laboratory is voluntary, so there is no mandated effect.

F) Agency contact person for information:

Dr. Richard Hull
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281
217/782-4944
FAX: 217/524-7702

G) Related rulemakings and other pertinent information: None

m) Part(s) (Heading and Code Citation): Motor Fuel Standards Act, 8 Ill. Adm. Code 850

1) Rulemaking:

A) Description: Amend rules to delete procedures for charging consumers when motor fuel samples are analyzed to be consistent with changes made to the Act.

B) Statutory Authority: Motor Fuel Standards Act [815 ILCS 370]

C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.

D) Date Agency anticipates First Notice: September, 1998

E) Effect on small businesses, small municipalities or not for profit corporations: No adverse impact is anticipated.

F) Agency contact person for information:

Sid Colbrook
Illinois Department of Agriculture
State Fairgrounds

DEPARTMENT OF AGRICULTURE

JULY 1998 REGULATORY AGENDA

- o) Part(s) (Heading and Code Citation): Weights and Measures Act, 8 Ill. Adm. Code 600

1) Rulemaking:

A) Description: The National Type Evaluation Program has been adopted as the standards for new weighing and measuring devices. Procedures need to be implemented to provide device users and installers information regarding the installation or transfer of weighing and measuring devices.

Pursuant to the Illinois Weights and Measures Act, the Department collects fees for device inspections. There are some devices such as mass flow meters that do not have an established inspection fee. Amendments to this Part will add fees for all devices being inspected by the Department that are not included in the current fee schedule.

B) Statutory Authority: Weights and Measures Act [225 ILCS 470]

C) Scheduled meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.

D) Date Agency anticipates First Notice: October 1998

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will: (1) give businesses and service personnel direction about the installation and transfer of a weighing or measuring device; and (2) establish fees for businesses to test and certify weighing and measuring devices not currently included in the fee schedule.

F) Agency contact person for information:

Sid Colbrook
Illinois Department of Agriculture
P. O. Box 19281
Springfield, IL 62794-9281
217/782-3817
FAX: 217/524-7801

G) Related rulemakings and other pertinent information: None

p) Part(s) (Heading and Code Citation): Standardbred and Thoroughbred Horse Breeding and Racing Programs, 8 Ill. Adm. Code 290

1) Rulemaking:

DEPARTMENT OF AGRICULTURE

JULY 1998 REGULATORY AGENDA

A) Description: The Department anticipates amending these rules to clean up and clarify existing rules and to propose amendments necessary to comply with the statutory changes to the Horse Racing Act of 1975. In Subpart A, amendments will be made regarding definitions concerning Illinois residency requirements for thoroughbred stallion ownership.

In Subpart B, amendments will be made to outline procedures and requirements which will allow for fresh semen transportation within the state. Procedures for reporting change in standing location or ownership of Illinois stallions will be proposed. In Section 290.85, the reference to mare status reports will be deleted. In Section 290.110, the definition of aged division to 4 years and older will be amended.

In Subpart C, Thoroughbred Division, Illinois residency requirement for stallion ownership will be deleted along with bill of sale requirement for new applications.

Language will be added relative to reporting standing location and ownership changes of Illinois stallions. With regard to broodmare eligibility, requirements will be added for newly created breed-back program and exemption of December 1 arrival date for Illinois residents' purchases prior to February 1 of foaling year. Delete mare status report requirement for Illinois conceived and foaled eligibles and amend report due dates. With regard to foal registration requirements: add one-time allowance for racing papers which have not been certified by the Department. With regard to County Fair racing, amend number of entry requirements and add violation if electrical, mechanical device and prohibited medications.

B) Statutory Authority: Section 30 and 31 of the Illinois Horse Racing Act of 1975 [230 ILCS 5/30 and 31]

C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*

D) Date Agency anticipates First Notice: November 1998

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will affect horse breeding farms.

F) Agency contact person for information:

Jim Reynolds
Illinois Department of Agriculture
State Fairgrounds

DEPARTMENT OF AGRICULTURE

JULY 1998 REGULATORY AGENDA

Springfield, IL 62794-9281
217/782-3629
FAX: 217/785-4059

G) Related rulemakings and other pertinent information: None

q) Part(s) (Heading and Code Citation): Agrichemical Facility Response Action program, (code citation to be assigned)

1) Rulemaking:

A) Description: This rulemaking will establish procedures governing the operation of the Agrichemical Facility Response Action Program including the coordination of Department and board functions as they relate to the application evaluation and oversight of agrichemical facility cleanups conducted under the program.

B) Statutory Authority: Illinois Pesticide Act [415 ILCS 60]

C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rulemaking in the *Illinois Register*. A public hearing on the proposed rulemaking will be held the last week of the 45-day comment period to receive comments.

D) Date Agency anticipates First Notice: October 1998

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will affect agrichemical facilities; it will facilitate the economic remediation of retail agrichemical facilities.

F) Agency contact person for information:

Warren Goetsch
Illinois Department of Agriculture
State Fairgrounds
Springfield, IL 62794-9281
217/785-8218
FAX: 217/524-4882

G) Related rulemakings and other pertinent information: None

r) Part(s) (Heading and Code Citation): Illinois Pesticide Act, 8 Ill. Adm. Code 250

DEPARTMENT OF AGRICULTURE

JULY 1998 REGULATORY AGENDA

1) Rulemaking:

A) Description: Rules will be proposed to create a new technical category for application of Metam Sodium in sewer lines.

B) Statutory Authority: Illinois Pesticide Act [415 ILCS 60]

C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rulemaking in the *Illinois Register*. A public hearing on the proposed rulemaking will be held the last week of the 45-day comment period to receive comments.

D) Date Agency anticipates First Notice: October 1998

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking may affect small municipalities; a license will be required to apply Metam Sodium to sewers.

F) Agency contact person for information:

Warren Goetsch
Illinois Department of Agriculture
State Fairgrounds
Springfield, IL 62794-9281
217/785-8218
FAX: 217/524-4882

G) Related rulemakings and other pertinent information: None

s) Part(s) (Heading and Code Citation): Farmland Preservation Act, 8 Ill. Adm. Code 700

1) Rulemaking:

A) Description: The Farmland Preservation Act requires that State agency policy statements and working agreements on farmland preservation shall be updated by the state agency and reviewed and approved by the Department of Agriculture every three years. The purpose of the rulemaking activity is to update the policy statements and working agreements, as necessary, to protect Illinois' agricultural land base from needless state agency farmland conversion impacts.

B) Statutory Authority: Farmland Preservation Act [505 ILCS 75]

C) Scheduled meeting/hearing date: Written comments may be submitted

DEPARTMENT OF AGRICULTURE

JULY 1998 REGULATORY AGENDA

during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.

- D) Date Agency anticipates First Notice: August 1998
- E) Effect on small businesses, small municipalities or not for profit corporations: No adverse impacts are anticipated.

F) Agency contact person for information:

James R. Hartwig
Illinois Department of Agriculture
Bureau of Land and Water Resources
P. O. Box 19281
Springfield, IL 62794
217/782-6297
FAX: 217/524-4882

G) Related rulemakings and other pertinent information: None

- t) Part(s) (Heading and Code Citation): Administrative Rules (Formal Administrative Proceedings; Contested Cases; Petitions; Public Disclosure), 8 Ill. Adm. Code 1

1) Rulemaking:

- A) Description: A fee will be established for any party requesting a copy of an administrative hearing transcript.

- B) Statutory Authority: Sections 5-10, 5-145, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-40, 10-50, and 10-60 of the Illinois Administrative Procedure Act [5 ILCS 100/5-10, 5-145, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-40, 10-50, and 10-60] and the Freedom of Information Act [5 ILCS 140]

- C) Scheduled meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.

- D) Date Agency anticipates First Notice: September 1998

- E) Effect on small businesses, small municipalities or not for profit corporations: Any party requesting a copy of an administrative hearing transcript will be responsible for the costs associated with the transcription.

- F) Agency contact person for information:

DEPARTMENT OF AGRICULTURE

JULY 1998 REGULATORY AGENDA

Judy Lozier
Illinois Department of Agriculture
P. O. Box 19281
Springfield, IL 62794-9281
217/785-4743
FAX: 217/785-4505

G) Related rulemakings and other pertinent information: None

- u) Part(s) (Heading and Code Citation): Freedom of Information Act, 2 Ill. Adm. Code 701

1) Rulemaking:

- A) Description: Amendments to this Part will update these rules in accordance with recent statutory amendments. The fee schedule in Section 701.140 will also be amended and updated.

- B) Statutory Authority: Freedom of Information Act [5 ILCS 140]

- C) Scheduled meeting/hearing date: None

- D) Date Agency anticipates First Notice: First Notice publication is not required under this Part.

- E) Effect on small businesses, small municipalities or not for profit corporations: There will be an increase in duplication costs for those requesting copies under the FOIA.

F) Agency contact person for information:

Debbie Wakefield
Illinois Department of Agriculture
P. O. Box 19281
Springfield, IL 62794-9281
217/785-5713
FAX: 217/785-4505

G) Related rulemakings and other pertinent information: None

- v) Part(s) (Heading and Code Citation): Meat and Poultry Inspection Act, Ill. Adm. Code 125

1) Rulemaking:

- A) Description: An amendment to Section 125.40 will be made to adopt

DEPARTMENT OF AGRICULTURE

JULY 1998 REGULATORY AGENDA

all of 9 CFR 305.1 in the Code of Federal Regulations regarding official numbers for establishments.

- B) Statutory Authority: Meat and Poultry Inspection Act [225 ILCS 650] and Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16]
- C) Scheduled meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.

D) Date Agency anticipates First Notice: September 1998

E) Effect on small businesses, small municipalities or not for profit corporations: No adverse impact is anticipated.

F) Agency contact person for information:

Judy Lozier
Illinois Department of Agriculture
P. O. Box 19281
Springfield, IL 62794-9281
217/785-4743
FAX: 217/785-4505

G) Related rulemakings and other pertinent information: None

- w) Part(s) (Heading and Code Citation): Illinois State Fair, and DuQuoin State Fair, Non-Fair Space Rental and the General Operation of the State Fairgrounds, 8 Ill. Adm. Code 270

1) Rulemaking:

A) Description: New regulations will be developed regarding advertising in State Fair publications [20 ILCS 210/6]. Amendments to "Facility Availability" (Section 270.420) will be amended to facilitate additional rentals to maximize income throughout the non-fair season. A clarification is needed to further explain the Department's policy of allowing last year's lessees to have first right to the same dates in subsequent years in Section 270.380 concerning "Application for Space".

B) Statutory Authority: State Fair Act [20 ILCS 210] and Section 40.14 and Section 16 of the Civil Administrative code of Illinois [20 ILCS 5/16 and 40.14]

C) Scheduled meeting/hearing date: Written comments may be submitted

DEPARTMENT OF AGRICULTURE

JULY 1998 REGULATORY AGENDA

during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.

D) Date Agency anticipates First Notice: November 1998

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will affect those wishing to rent space/buildings on the fairgrounds and those advertising in fair publications.

F) Agency contact person for information:

Jim Reynolds
Illinois Department of Agriculture
P. O. Box 19281
Springfield, IL 62794-9281
217/782-3629
FAX: 217/785-4059

G) Related rulemakings and other pertinent information: None

COMPTROLLER MERIT COMMISSION

JULY 1998 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Merit Commission Rules (80 Ill. Adm. Code 100)

1) Rulemaking:

A) Description: The rules provide the Merit Commission with the power to review and investigate personnel policies and administrative practices to ensure that they are in compliance with the Merit Employment Code. Upon written recommendations by the Director of Personnel, the rules provide the Commission authority to exempt positions from Jurisdiction B of the Merit Employment Code. The Merit Commission rules also provide protection from unjust discharge, suspension, demotion or geographic transfers of employees of the Office of the Comptroller and outlines procedures to hear allocation appeals and approve or disapprove written charges of employees of the Office of the Comptroller.

B) Statutory Authority: Implementing and authorized by the Comptroller Merit Employment Code [15 ILCS 410].

C) Schedule meeting/hearing date: July 16, 1998; August 20 1998; September 17, 1998; October 15, 1998; November 19, 1998; December 17, 1998.

D) Date agency anticipates First Notice: The Merit Commission does not anticipate any rule changes.

E) Effect on small business, small municipalities or not for profit corporations: N/A

F) Agency contact person for information:

Name: Bruce Stratton, Chairman
Comptroller Merit Commission
Address: 325 West Adams Street
Springfield, IL 62704-1858
Telephone: 217/785-1127

G) Related rulemakings and other pertinent information: N/A

DEPARTMENT OF INSURANCE

JULY 1998 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Preamble and Definitions, 50 Ill. Adm. Code 751

1) Rulemaking:

A) Description: The Department will open this rule for amendment to update procedures and revise other elements that will better facilitate premium comparisons for consumers.

B) Statutory Authority: [215 ILCS 5/123 and 401]

C) Schedule meeting/hearing date: No meeting or hearings dates have been scheduled by the Department.

D) Date agency anticipates First Notice: October 1998

E) Effect on small businesses, small municipalities or not for profit corporations: These amendments will not affect small businesses, municipalities or not for profit corporations.

F) Agency contact person for information:

Name: Bob Heisler
Address: Department of Insurance
320 West Washington Street
Fourth Floor
Springfield, Illinois 62767-0001
Telephone: (217) 785-0598

G) Related rulemakings and other pertinent information: None

- b) Part(s) (Heading and Code Citation): Insurance Department Complaints, 50 Ill. Adm. Code 926

1) Rulemaking:

A) Description: The Department will open this rule for amendment to address the confidentiality issue of consumer complaint files. We will also be making some housekeeping changes.

B) Statutory Authority: [215 ILCS 5/133, 149, 421, 424 and 401]

C) Schedule meeting/hearing date: No meeting or hearing dates have been scheduled by the Department.

DEPARTMENT OF INSURANCE
JULY 1998 REGULATORY AGENDA

Telephone: (217) 557-1396

- G) Related rulemakings and other pertinent information: Other related rulemakings include 50 Ill. Adm. Code Part 2505, 2510, 2515, 2520 and 2525.

d) Part(s) (Heading and Code Citation): Fees and Charges, 50 Ill. Adm. Code 2505

1) Rulemaking:

- A) Description: This new rule will set forth the procedural requirements for the payment of fees and charges authorized by Section 408 of the Illinois Insurance Code [215 ILCS 5/408] and will further provide certain clarification for such fees and charges.

B) Statutory Authority: [215 ILCS 5/401 and 408]

C) Schedule meeting/hearing date: No meeting or hearing dates have been scheduled by the Department.

D) Date agency anticipates First Notice: August 1998

E) Affect on small businesses, small municipalities or not for profit corporations: This new rule will apply to all individuals and entities regulated under Section 408 of the Illinois Insurance Code.

F) Agency contact person for information:

Name: Chuck Feinen
Staff Attorney
Address: Department of Insurance
320 West Washington Street
Fourth Floor
Springfield, Illinois 62767-0001
Telephone: (217) 557-1396

G) Related rulemakings and other pertinent information: Other related rulemakings include 50 Ill. Adm. Code Part 2505, 2510, 2515, 2520 and 2525.

e) Part(s) (Heading and Code Citation): Annual Privilege Tax, 50 Ill. Adm. Code 2510

1) Rulemaking:

DEPARTMENT OF INSURANCE
JULY 1998 REGULATORY AGENDA

D) Date agency anticipates First Notice: July 1998

E) Affect on small businesses, small municipalities or not for profit corporations: These amendments should not have an effect on small businesses, municipalities or not for profit corporations.

F) Agency contact person for information:

Name: David Van Lieshout
Assistant Chief Counsel
Address: Department of Insurance
320 West Washington Street
Fourth Floor
Springfield, Illinois 62767-0001
Telephone: (217) 782- 0708

G) Related rulemakings and other pertinent information: None

c) Part(s) (Heading and Code Citation): General Provisions, 50 Ill. Adm. Code 2500

1) Rulemaking:

A) Description: This new rule will set forth definitions for terms that will be used in all Subchapter ee administrative regulations.

B) Statutory Authority: [215 ILCS 5/401 and 408]

C) Schedule meeting/hearing date: No meeting or hearing dates have been scheduled by the Department.

D) Date agency anticipates First Notice: August 1998

E) Affect on small businesses, small municipalities or not for profit corporations: This new rule will apply to all individuals and entities regulated under Section 408 of the Illinois Insurance Code.

F) Agency contact person for information:

Name: Chuck Feinen
Staff Attorney
Address: Department of Insurance
320 West Washington Street
Fourth Floor
Springfield, Illinois 62767-0001

DEPARTMENT OF INSURANCE

JULY 1998 REGULATORY AGENDA

- A) Description: This new rule will set forth the procedural requirements for the payment of the annual privilege tax pursuant to Section 409 of the Illinois Insurance Code [215 ILCS 5/409]. This new rule will also provide clarification of the calculation for such tax.
- B) Statutory Authority: [215 ILCS 5/401 and 409]
- C) Schedule meeting/hearing date: No meetings or hearing dates have been scheduled by the Department.
- D) Date agency anticipates First Notice: August 1998
- E) Affect on small businesses, small municipalities or not for profit corporations: This new rule will apply to all individuals and entities regulated under Section 409 of the Illinois Insurance Code.
- F) Agency contact person for information:
 Name: Chuck Feinen
 Staff Attorney
 Address: Department of Insurance
 320 West Washington Street
 Fourth Floor
 Springfield, Illinois 62767-0001
 Telephone: (217) 557-1396
- G) Related rulemakings and other pertinent information: Other related rulemakings include 50 Ill. Adm. Code Part 2500, 2505, 2515, 2520 and 2525.
- f) Part(s) (Heading and Code Citation): Annual Retaliatory Tax, 50 Ill. Adm. Code 2515
- 1) Rulemaking:
- A) Description: This new rule will set forth the procedural requirements for the payment of the annual retaliatory tax pursuant to Section 444 and 444.1 of the Illinois Insurance Code [215 ILCS 5/444 and 444.1]. This new rule will also provide clarification of the calculation for such tax.
- B) Statutory Authority: [215 ILCS 5/401, 444 and 444.1]
- C) Schedule meeting/hearing date: No meetings or hearing dates have been scheduled by the Department.
- D) Date agency anticipates First Notice: August 1998

DEPARTMENT OF INSURANCE

JULY 1998 REGULATORY AGENDA

- E) Affect on small businesses, small municipalities or not for profit corporations: This new rule will apply to all individuals and entities regulated under Section 444 and 444.1 of the Illinois Insurance Code.
- F) Agency contact person for information:
 Name: Chuck Feinen
 Staff Attorney
 Address: Department of Insurance
 320 West Washington Street
 Fourth Floor
 Springfield, Illinois 62767-0001
 Telephone: (217) 557-1396
- G) Related rulemakings and other pertinent information: Other related rulemakings include 50 Ill. Adm. Code Part 2500, 2505, 2510, 2520, 2525.
- g) Part(s) (Heading and Code Citation): Annual Fire Marshal Tax, 50 Ill. Adm. Code 2520
- 1) Rulemaking:
- A) Description: This new rule will set forth the procedural requirements for the payment of the State Fire Marshal tax pursuant to Section 12 of the Fire Investigation Act [425 ILCS 25/12]. This new rule will also provide clarification of the calculation for such tax.
- B) Statutory Authority: [215 ILCS 5/401] and [425 ILCS 25/12]
- C) Schedule meeting/hearing date: No meetings or hearing dates have been scheduled by the Department.
- D) Date agency anticipates First Notice: August 1998
- E) Affect on small businesses, small municipalities or not for profit corporations: This new rule will not affect small businesses, municipalities or not for profit corporations.
- F) Agency contact person for information:
 Name: Chuck Feinen
 Staff Attorney
 Address: Department of Insurance
 320 West Washington Street
 Fourth Floor

DEPARTMENT OF INSURANCE

JULY 1998 REGULATORY AGENDA

Springfield, Illinois 62767-0001

Telephone: (217) 557-1396

- G) Related rulemakings and other pertinent information: Other related rulemakings include 50 Ill. Adm. Code Part 2500, 2505, 2510, 2515 and 2525.

- h) Part(s) (Heading and Code Citation): Overpayments, Credits and Amendments, 50 Ill. Adm. Code 2525

1) Rulemaking:

- A) Description: This new rule will set forth the procedural requirements for credit, overpayments and amendments to be used or made concerning taxes collected by the Department pursuant to Section 412 of the Illinois Insurance Code [215 ILCS 5/412].

- B) Statutory Authority: [215 ILCS 5/401 and 412]

- C) Schedule meeting/hearing date: No meetings or hearings have been scheduled by the Department.

- D) Date agency anticipates First Notice: August 1998

- E) Affect on small businesses, small municipalities or not for profit corporations: This new rule will apply to all individuals and entities regulated under Section 412 of the Illinois Insurance Code.

- F) Agency contact person for information:

Name: Chuck Feinen
Staff Attorney
Address: Department of Insurance
320 West Washington Street
Fourth Floor
Springfield, Illinois 62767-0001
Telephone: (217) 557-1396

- G) Related rulemakings and other pertinent information: Other related rulemakings include 50 Ill. Adm. Code Part 2500, 2505, 2510, 2515 and 2520.

- i) Part(s) (Heading and Code Citation): Assigned Risk Procedures, 50 Ill. Adm. Code 2904

1) Rulemaking:

DEPARTMENT OF INSURANCE

JULY 1998 REGULATORY AGENDA

- A) Description: The Department will open this rule for amendment to update procedures and revise terminology in addition to adding a new bidding process for designers.

- B) Statutory Authority: [215 ILCS 5/401, 458, and 468]

- C) Schedule meeting/hearing date: No meetings or hearings have been scheduled by the Department.

- D) Date agency anticipates First Notice: October 1998

- E) Affect on small businesses, small municipalities or not for profit corporations: These amendments will not affect small business, municipalities or not for profit corporations.

- F) Agency contact person for information:

Name: Bob Heisler
Address: Department of Insurance
320 West Washington Street
Fourth Floor
Springfield, Illinois 62767-0001
Telephone: (217) 785-0598

- G) Related rulemakings and other pertinent information: None

ILLINOIS LIQUOR CONTROL COMMISSION

REGULATORY AGENDA JULY 1998

- a) Part (Heading and Code Citation): The Illinois Liquor Control Commission ll Ill. Adm. Code 100

1) Rulemaking:

A) Description: Generally to update Federal citations. To eliminate language already included in the statute. Specifically: Section 100.10 - Add language to clarify the definition of Manager or Agent. Delete definition of "Sampling" as now included in the Liquor Control Act. Add language to clarify the definition of Tasting. Add the definition of "Minor" taken from the last Attorney General opinion dealing with the subject. Section 100.30 - Add that a disposition of a fine may be imposed by the Commission for violation of this section. Add language to clarify what the Commission considers a conviction. Section 100.40 - Update the section to conform with deletions in the definition section and add that a social security number shall be required in the form submitted to the Commission. Add clarifying language including whether an out-of-state person may register as such. Section 100.50 - Update to include the latest Federal Alcohol Administration regulations. Section 100.60 - Delete any wording that is already included verbatim in the Liquor Control Act and not needed for clarification in the section. Section 100.70 - Update to include the latest Federal Alcohol Administration regulations. Delete the subsection requiring that alcoholic content be stated on all wine labels. Delete any wording that is already included verbatim in the Liquor Control Act and not needed for clarification in the section. Section 100.90 - Add what was 100.240(c) as 100.90(k) as the material deals with credit to retail licensees. Section 100.100 - Add that changes within other corporate entities licensed by the Commission shall also be reported to the Commission. Section 100.120 - Delete any wording that is already included verbatim in the Liquor Control Act and not needed for clarification in the section. Section 100.150 - Add language requiring the size of type to be used on labels for salvaged alcoholic liquor and language to substitute container for bottle or package to be consistent with the remaining language in that section. Section 100.160(b) - Update to include new systems in the marketplace. Delete any wording that is now addressed in the Liquor Control Act. Add Section 100.290(c) to this section as it deals with the subject matter. Section 100.170 - Add language to b) that the section refers to a). Section 100.180 - Add that a disposition of a fine may be imposed by the Commission for violation of this section. Amend "Warning Letters" to

ILLINOIS LIQUOR CONTROL COMMISSION

REGULATORY AGENDA JULY 1998

"Violation Discharge Letters" as they are currently titled. Section 100.210 - Delete any wording that is now addressed in the Liquor Control Act. Section 100.240 - Delete as the section from the Liquor Control Act which the section interpreted or explained was repealed. Section 100.250 - Add language detailing exceptions. Section 100.270 - Add language detailing the invoicing and storage of the alcoholic liquor. Section 100.280 - Delete wording that is now addressed in the Liquor Control Act. Section 100.290 - Delete c) and add to Section 100.160 which deals with the subject matter. Section 100.320 - Delete any wording that is already included verbatim in the Liquor Control Act and not needed for clarification in the section. Section 100.390 - Add language from the Illinois Administrative Review Law regarding transcripts filed in Administrative Review cases.

B) Statutory Authority: The Liquor Control Act of 1934 [235 ILCS 5/3-12(2)].

C) Scheduled meeting/hearing dates: Hearings will be scheduled if requested; comments can be directed to Anne T. Treonis, Legal Counsel.

D) Date agency anticipates First Notice: August, 1998.

E) Affect on small businesses, small municipalities or not for profit corporations: No adverse affects.

F) Agency contact person for information:

Anne T. Treonis
Legal Counsel
Illinois Liquor Control Commission
100 W. Randolph St. #5-300
Chicago, IL 60601
(312)814-2604

G) Related rulemakings and other pertinent information: None

DEPARTMENT OF NUCLEAR SAFETY

JULY 1998 REGULATORY AGENDA

- a) Part (Heading and Code Citation): Fees for Radioactive Material Licenses, 32 Ill. Adm. Code 331

Rulemaking: Proposed Amendment

A) Description: The Department is proposing to modify this Part to include a description of a fee category in Appendix E for Department of Energy facilities wishing to pursue licensure by the Department and a corresponding change in Appendix F indicating that the new fee category will be full cost.

B) Statutory Authority: Implementing and authorized by Section 11 of the Radiation Protection Act of 1990 [420 ILCS 40/11].

C) Scheduled meeting/hearing dates: None scheduled

D) Date agency anticipates First Notice: July 1998

E) Affect on small businesses, small municipalities or not for profit corporations: The Department believes that this amendment will not affect small businesses, small municipalities or not for profit corporations that are licensed by the Department to possess, use, distribute, store, treat or dispose of radioactive materials. This amendment requires only the payment of a fee incident to registration and licensure.

F) Agency contact person for information:

Rose Miller
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, IL 62704
(217) 785-9860 (voice)
(217) 782-6133 (TDD)

G) Related rulemakings and other pertinent information: None

- b) Part (Heading and Code Citation): Standards for Protection Against Radiation, 32 Ill. Adm. Code 340

Rulemaking: Proposed Amendment

A) Description: The Department is proposing to amend this Part to adopt recent changes implemented by the U.S. NRC to improve low-level radioactive waste manifest information and reporting. This amendment will: (1) replace the provisions contained in Section 340.1060 which will improve the quality and uniformity of

DEPARTMENT OF NUCLEAR SAFETY

JULY 1998 REGULATORY AGENDA

information contained in manifests that are required to control transfers of low-level radioactive waste that is ultimately intended for disposal at a land disposal facility; (2) adopt by reference a set of forms that allows low-level radioactive waste to be tracked from its origin to meet NRC, Department of Transportation (DOT), State and Compact information requirements; (3) allow low-level radioactive waste operators to electronically store container-specific manifest information; and (4) clarify the requirements in Section 340.1270 for reporting of missing waste shipments.

B) Statutory Authority: Implementing and authorized by Section 16 of the Radiation Protection Act of 1990 [420 ILCS 40/16].

C) Scheduled meeting/hearing dates: None scheduled

D) Date agency anticipates First Notice: September 1998

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Rose Miller
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, IL 62704
(217) 785-9860 (voice)
(217) 782-6133 (TDD)

G) Related rulemakings and other pertinent information: None

- c) Part (Heading and Code Citation): Use of X-rays in the Healing Arts Including Medical, Dental, Podiatry, and Veterinary Medicine, 32 Ill. Adm. Code 360

Rulemaking: Proposed Amendment

A) Description: The Department is creating a new Part 370 and amending Part 401, to facilitate federal approval of a State MQSA certification program for State fiscal year 1999. With the adoption and implementation of the new mammography rules, Section 360.71 of this Part will become obsolete and is therefore being repealed by the Department.

B) Statutory Authority: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40].

DEPARTMENT OF NUCLEAR SAFETY

JULY 1998 REGULATORY AGENDA

- C) Scheduled meeting/hearing dates: None scheduled
- D) Date agency anticipates First Notice: January 1999
- E) Affect on small businesses, small municipalities or not for profit corporations: The Department does not believe that these amendments will impact small businesses, small municipalities or not for profit corporations.
- F) Agency contact person for information:
Rose Miller
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, IL 62704
(217) 785-9860 (voice)
(217) 782-6133 (TDD)
- G) Related rulemakings and other pertinent information: None

- d) Part (Heading and Code Citation): Quality Standards and Certification Requirements for Facilities Performing Mammography, 32 Ill. Adm. Code 37C
- Rulemaking: Emergency and Proposed Rule

A) Description: This emergency rulemaking will facilitate federal approval and implementation of the State certification program for State fiscal year 1999. Illinois is one of the first two States that have applied to the Food and Drug Administration (FDA) to become authorized to implement federal MQSA certification requirements as part of FDA's States as Certifiers Demonstration Project. FDA has approved the Department's application pending adoption and implementation of rules consistent with implementing a emergency rulemaking is a preliminary step towards implementing a State certification program under subsection (q) of the federal MQSA, and subsection (b) of Section 24.5 of the Radiation Protection Act of 1990. This Part establishes quality standards and certification requirements for facilities performing mammography to ensure that all mammography facilities are adequately and consistently evaluated for compliance with the standards provided for in this Part. This Part also establishes additional training, continuing education and continuing experience requirements for radiographers performing mammography services at mammography facilities. The standards in this Part are consistent with standards in FDA's final mammography rule which becomes effective on April 28, 1999.

DEPARTMENT OF NUCLEAR SAFETY

JULY 1998 REGULATORY AGENDA

- B) Statutory Authority: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40].
- C) Scheduled meeting/hearing dates: None scheduled
- D) Date agency anticipates First Notice: July 1998
- E) Affect on small businesses, small municipalities or not for profit corporations: The Department believes that a few of the 444 facilities currently providing mammography services in Illinois could be small businesses and/or not-for-profit corporations and may be affected by this rule. However, the effect will be positive for most of the facilities. All 444 facilities will be required to pay a \$750 annual fee. However, for 406 facilities, this should result in a substantial reduction from the current FDA fee. FDA charges additional fees for machines at each facility. The Department does not. For 38 facilities claiming government entity status, who do not currently pay FDA mammography fees, the Department fee will be a \$750 expenditure.

- F) Agency contact person for information:

Rose Miller
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, IL 62704
(217) 785-9860 (voice)
(217) 782-6133 (TDD)

- G) Related rulemakings and other pertinent information: See emergency and proposed amendments to 32 Ill. Adm. Code 401

- e) Part (Heading and Code Citation): Accrediting Persons in the Practice of Medical Radiation Technology, 32 Ill. Adm. Code 401

Rulemaking: Proposed Amendment

A) Description: The Department is proposing this amendment to: (1) increase the initial application fee for persons who perform medical radiation procedures; (2) increase the application fees for persons who do not apply for, or meet, renewal requirements in a timely manner; (3) reduce civil penalties in cases where the threat to public health and safety were minimal and increase the penalties for persons performing medical radiation procedures without proper training and qualifications; and (4) update incorporations by references and makes minor editorial changes. The increased fees will offset a portion of the additional costs

DEPARTMENT OF NUCLEAR SAFETY

JULY 1998 REGULATORY AGENDA

associated with the processing of applications submitted late or deficient in continuing education. B) Statutory Authority: Implementing and authorized by Sections 5, 6, 7 and 36 of the Radiation Protection Act of 1990 [420 ILCS 40/5, 6, 7 and 36].

C) Scheduled meeting/hearing dates: None scheduled

D) Date agency anticipates First Notice: November 1998

E) Affect on small businesses, small municipalities or not for profit corporations: The Department believes that these amendments will impact small businesses, such as small radiation installations where unaccredited persons are allowed to administer radiation to humans in violation of the Radiation Protection Act of 1990.

F) Agency contact person for information:

Rose Miller
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, IL 62704
(217) 785-9860 (voice)
(217) 782-6133 (TDD)

G) Related rulemakings and other pertinent information: None

f) Part (Heading and Code Citation): Safe Operation of Nuclear Facility Boilers and Pressure Vessels, 32 Ill. Adm. Code 505

Rulemaking: Proposed Amendment

A) Description: The Department was requested by Commonwealth Edison to consider a wording change to this rule that would allow them to synchronize inspections on non-ISI (non-safety related) pressure vessels subject to internal corrosion with refuel outages. Therefore, the Department is proposing this amendment to: (1) add new subsections (a)(3)(A) and (B) to Section 505.2200 which will parallel existing language already in place for vessels not subject to internal corrosion contained in subsection (a)(4)(C); (2) update the list of references to match the Office of State Fire Marshal rules; (3) incorporate by reference later additions of the ASME and National Board Inspection Codes; (4) eliminate language that no longer applies; and (5) make minor editorial changes to clarify the text so that the style of this rule is consistent with other Department rules.

B) Statutory Authority: Implementing and authorized by Section

DEPARTMENT OF NUCLEAR SAFETY

JULY 1998 REGULATORY AGENDA

8(a)(8) of the Illinois Nuclear Safety Preparedness Act [420 ILCS 5/8(a)(8)], Sections 2a and 2b of the Boiler and Pressure Vessel Safety Act [430 ILCS 75/2a and 2b], and by Section 71(C) of the Civil Administrative Code of Illinois [20 ILCS 2005/71(C)].

C) Scheduled meeting/hearing dates: None scheduled

D) Date agency anticipates First Notice: August 1998

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Rose Miller
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, IL 62704
(217) 785-9860 (voice)
(217) 782-6133 (TDD)

G) Related rulemakings and other pertinent information: None

g) Part (Heading and Code Citation): Licensing Requirements for Land Disposal of Radioactive Waste, 32 Ill. Adm. Code 601

Rulemaking: Proposed Amendment

A) Description: The Department is amending this Part to adopt recent changes implemented by the U.S. NRC to improve low-level radioactive waste manifest information and reporting. This amendment will: (1) add a new subsection (o) to Section 601.70 requiring that the licensee provide a description of the facility electronic recordkeeping system; (2) clarify recordkeeping procedures detailed in Section 601.330; and (3) make editorial changes to clarify the test so that the style of this rule is consistent with other Department rules.

B) Statutory Authority: Implementing and authorized by the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20]/

C) Scheduled meeting/hearing dates: None scheduled

D) Date agency anticipates First Notice: September 1998

E) Affect on small businesses, small municipalities or not for profit corporations: None

DEPARTMENT OF NUCLEAR SAFETY

JULY 1998 REGULATORY AGENDA

F) Agency contact person for information:

Rose Miller
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, IL 62704
(217) 785-9860 (voice)
(217) 782-6133 (TDD)

G) Related rulemakings and other pertinent information: None

- h) Part (Heading and Code Citation): Requirements for the Disposal of Low-Level Radioactive Waste Away from the Point of Generation, 32 Ill. Adm. Code 606

Rulemaking: Proposed Amendment

A) Description: The Department is proposing this amendment to adopt recent changes implemented by the U.S. NRC to improve low-level radioactive waste manifest information and reporting. This amendment will add a new subsection (e) to Section 606.40 allowing licensees to store or have stored manifest and other information pertaining to receipt and disposal of radioactive waste in an electronic recordkeeping system.

B) Statutory Authority: Implementing and authorized by Section 6 of the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20/6].

C) Scheduled meeting/hearing dates: None scheduled

D) Date agency anticipates First Notice: September 1998

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Rose Miller
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, IL 62704
(217) 785-9860 (voice)
(217) 782-6133 (TDD)

G) Related rulemakings and other pertinent information: None

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

a) Parts (Headings and Code Citations):

General Rules (35 Ill. Adm. Code 101)
Regulatory and Informational Hearings and Proceedings (35 Ill. Adm. Code 102)
Enforcement Proceedings (35 Ill. Adm. Code 103)
Variances (35 Ill. Adm. Code 104)
Permits (35 Ill. Adm. Code 105)
Hearings Pursuant to Specific Rules (35 Ill. Adm. Code 106)
Identification and Protection of Trade Secrets (35 Ill. Adm. Code 120)

1) Rulemaking: Docket number E97-8

A) Description: 35 Ill. Adm. Code: Subtitle A (Parts 101 through 120) contains the procedural rules of the Pollution Control Board (Board). After an extensive review of these rules, the Board, on October 3, 1996, adopted a proposal for public comment and hearing, rather than a proposal for First Notice publication in the *Illinois Register*. That proposal suggested certain changes to update and streamline the Board's procedural rules. The prospective revisions are intended to repeal and replace the Board's existing procedural rules.

B) Statutory Authority: Sections 26 and 28 of the Illinois Environmental Protection Act [415 ILCS 5/26 & 28].

C) Scheduled meeting/hearing dates: The Board originally established a period through December 15, 1996 to allow interested persons to comment on the prospective changes to the Board's procedural rules. On December 10, 1996, the Board extended the public comment period to January 10, 1997. The Board has not scheduled any public hearings in this matter to date.

D) Date agency anticipates First Notice: The Board may cause First Notice publication of Notices of Proposed Amendments in the Summer or Fall of 1998.

E) Affect on small business, small municipalities, or not-for-profit corporation: There may be an effect on any small business, small municipality, or not-for-profit corporation which appears before the Board in any type of proceeding. These proceedings include rulemakings; enforcement actions; variances, adjusted standards and site-specific rule requests; permit appeals; review of local government decisions concerning siting of pollution control facilities; and any other actions provided for in the Environmental Protection Act.

F) Agency contact person for information: Address written comments

POLLUTION CONTROL BOARD
JULY 1998 REGULATORY AGENDA

concerning the substance of the rulemaking, noting docket number R97-8, as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting docket number R97-8, as follows:

Cynthia I. Ervin
Pollution Control Board
600 South Second Street
Suite 402
Springfield, Illinois 62704
217-524-8509
Internet: cervin@pcb084RI.state.il.us

G) Related rulemakings and other pertinent information: Another prospective proceeding to be filed by the Illinois Environmental Protection Agency (IEPA) (see item (b) below), and other, as yet unknown, unrelated Board proceedings could potentially impact part 106. No presently known proceedings would affect the general provisions of Parts 101 through 105 or 120.

If review of existing procedural rules warrants it, the Board may open additional parts within 35 Ill. Adm. Code: Subtitle A.

b) Parts (Headings and Code Citations): Hearings Pursuant to Specific Rules (35 Ill. Adm. Code 106)

1) Rulemaking: No docket presently reserved.

A) Description: The IEPA is currently preparing a rulemaking proposal for filing before the Board. 35 Ill. Adm. Code 106, Subpart K, Involuntary Termination Procedures for Environmental Management System Agreements (EMSAs). Subtitle A of Title 35 contains the procedural rules of the Pollution Control Board (Board). This prospective rulemaking would propose the addition of Board procedures for the involuntary termination of EMSAs entered into pursuant to Section 52.3 of the Environmental Protection Act (Act), 415 ILCS 5/52.3. Section 52.3 of the Act provides for a pilot program that allows the IEPA to enter into agreements with companies, or "sponsors," pursuant to an EMSA. An EMSA is a pilot project intended to implement innovative environmental measures, even if one or more of these measures is

POLLUTION CONTROL BOARD
JULY 1998 REGULATORY AGENDA

inconsistent with otherwise applicable environmental statutes or regulations of the State. Section 52.3-2(c) requires the IEPA to propose procedures to the Board for involuntary termination of an EMSA.

B) Statutory Authority: Implementing Section 52.3 and authorized by Section 27 of the Environmental Protection Act (Act) [415 ILCS 5/52.3 & 27].

C) Scheduled meeting/hearing dates: The IEPA presently anticipates filing this regulatory proposal before the Board in the Summer or Fall of 1998. Once the proposal is filed, the Board will hold hearings in accordance with the requirements established by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].

D) Date agency anticipates First Notice: An IEPA submittal of a proposal to the Board will commence this proceeding in Summer or Fall 1998, after which time the Board will cause a Notice of Proposed Rules to appear in the *Illinois Register*.

E) Affect on small business, small municipalities, or not-for-profit corporation: These rules are intended to implement procedures for involuntarily terminating participation in a voluntary pilot program that allows companies, or "sponsors," to propose a pilot project which could relax existing regulatory requirements. Sponsors that are accepted to participate in the pilot program are expected to do so because it will result in some reduction in the regulatory impact on their activities, generally in terms of paperwork reduction (e.g., recordkeeping and reporting requirements). In some cases, these sponsors may also experience some reduction in the regulatory impact on their activities through alternative modes of compliance with environmental laws and regulations.

The prospective regulations could impact a small business, a small municipality, or a not-for-profit corporation that voluntarily participates in an EMSA if the IEPA finds it necessary to involuntarily terminate that agreement. The anticipated impact of such a termination would be to allow the re-imposition of otherwise applicable existing State law and regulations on the affected facility.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, as follows:

Dorothy Gunn, Clerk
Pollution Control Board

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda as follows:

Kathleen M. Crowley
Pollution Control Board
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601
312-814-6929

- G) Related rulemakings and other pertinent information: Presently pending docket R97-8 (see item (a) above) could affect the text of Part 106.

Recently-adopted IEPA rules, 35 Ill. Adm. Code 187, entitled Regulatory Innovation Projects (22 Ill. Reg. 6217, effective March 20, 1998), are related to this proposed rulemaking. Interested persons may obtain copies of these rules or question the IEPA about 35 Ill. Adm. Code 187 and the prospective related rulemaking before the Board by contacting the person indicated at the address and phone number listed below:

Laurel L. Kroack, Assistant Counsel
Illinois Environmental Protection Agency
1021 N. Grand Ave. East
P.O. Box 19276
Springfield, IL 62794-9276
217-782-5544

- c) Parts (Headings and Code Citations):

Permits and General Provisions (35 Ill. Adm. Code 201)
Hospital/Medical/Infectious Waste Incinerators (35 Ill. Adm. Code 230)

- 1) Rulemaking: No docket presently reserved.

- A) Description: The United States Environmental Protection Agency (USEPA) promulgated federal guidelines for existing medical waste incinerators in September 1998 to implement Sections 111(d) and 129 of the federal Clean Air Act (CAA). Under the CAA Section 129, States must submit a plan to the Administrator of USEPA to implement and enforce these guidelines within one year after the guidelines are promulgated. The IEPA is currently preparing a rulemaking proposal for filing with the Board based on its review of the prospective federal requirements.

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

- B) Statutory Authority: Implementing Section 10 and authorized by Section 27 of the Environmental Protection Act (Act) [415 ILCS 5/10 & 27].

- C) Scheduled Meetings/Hearing Dates: The IEPA presently anticipates that it will file a rulemaking proposal in the Summer of 1998. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct public hearings in accordance with the requirements established by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].

- D) Date Agency anticipates First Notice: An IEPA submittal of a proposal to the Board will commence this proceeding and is expected to be filed in the Summer of 1998, after which time the Board will cause a Notice of Proposed Rules to appear in the *Illinois Register*.

- E) Affect on small businesses, small municipalities, or not-for-profit corporations: This rule may affect any small businesses, small municipalities, or not-for-profit corporations that own or operate an existing hazardous/medical/infectious waste incinerator.

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda as follows:

Kathleen M. Crowley, Senior Attorney
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601
312-814-6929
Internet: kcrowley@pcb084rl.state.il.us

- G) Other pertinent information concerning these amendments: No other presently-known proceedings would potentially impact the general provisions of Parts 201 and 230.

For information regarding the IEPA's development of this proposal, please contact:

Evan McGinley

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217-782-5544

- d) Parts (Headings and Code Citations): Emissions Reduction Market System (35 Ill. Adm. Code 205)

1) Rulemaking:

A) Description: 35 Ill. Adm. Code 205 contains rules that establish the Emissions Reduction Market System (ERMS) authorized by Section 9.8 of the Environmental Protection Act (415 ILCS 5/9.8). Part 205 currently specifies that certain determinations (baseline emissions and emissions quantification methodologies) be established in a Clean Air Act Permit Program (CAAPP) permit. The IEPA will propose amendments to Part 205 that would allow the IEPA to make such determinations in federally enforceable State operating permits.

B) Statutory Authority: Implementing Section 9.8 and authorized by Section 27 of the Illinois Environmental Protection Act [415 ILCS 5/9.8 & 27].

C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will hold hearings in accordance with the requirements established by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].

D) Date agency anticipates First Notice: An IEPA submittal of a proposal to the Board will commence this proceeding in late Summer or Fall of 1998, after which time the Board will cause a Notice of Proposed Rules to appear in the *Illinois Register*.

E) Affect on small business, small municipalities, or not-for-profit corporation: Part 205 regulates major sources of volatile organic material emissions. Major sources are usually medium to large manufacturers but may be small businesses. The prospective amendments would affect a small business, a small municipality, or a not-for-profit corporation to the extent that it owns or operates a major source of organic material emissions.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda as follows:

Kathleen M. Crowley, Senior Attorney
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601
312-814-6929
Internet: kcrowley@pcb084rl.state.il.us

- G) Related rulemakings and other pertinent information: No other presently-known proceeding would affect the text of Part 205.

Address questions about this prospective rulemaking to the Illinois EPA contact person at the address and phone number listed below.

Bonnie Sawyer
Illinois Environmental Protection Agency
1021 North Grand Ave. East
P.O. Box 19276
Springfield, Illinois 62794-9276
217-782-5544
Internet: epa8867@epa.state.il.us

- e) Part (Heading and Code Citation): Definitions and General Provisions (35 Ill. Adm. Code 211)

1) Rulemaking: Docket number R99-5

A) Description: Section 9.1(e) of the Environmental Protection Act [415 ILCS 5/9.1(e)] mandates that the Board update the Illinois definition of volatile organic material (VOM), presently codified as 35 Ill. Adm. Code 211.7150, to reflect the USEPA additions to the list of exemptions of compounds from regulation as ozone precursors. Those compounds are determined by USEPA to be exempt from regulation under the State implementation plan (SIP) for ozone in the federal "Recommended Policy on the Control of Volatile Organic Compounds" (Recommended Policy) due to their negligible photochemical reactivity. On February 3, 1992 (57 Fed. Reg. 3945), USEPA codified its definition of VOM as 40 CFR 51.100(s), which now embodies the former Recommended Policy. This codified definition now includes all the compounds and classes of

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

compounds previously exempted in the former Recommended Policy.

The Board has reserved docket number R99-5 to accommodate any amendments to the 40 CFR 51.100(s) definition of VOM that USEPA may make in the period January 1, 1998, through June 30, 1998. Section 9.1(e) mandates that the Board complete our amendments within one year of the date on which USEPA adopted its action upon which our amendments are based. At this time, the Board is aware of only one federal amendment to the federal definition of VOM. On April 9, 1998, USEPA added methyl acetate to the list of compounds exempted from the definition of VOM. This amendment was adopted in the definition of VOM update docket R98-17 on June 17, 1998. The action in docket R98-17 may obviate further action in docket R99-5, assuming USEPA undertakes no additional exemptions from the definition of VOM prior to July 1, 1998. The Board will verify the possibility of further federal amendments in coming weeks. The Board will then propose corresponding amendments to the Illinois definition of VOM using the identical-in-substance procedure or dismiss docket R99-5 as unnecessary, as appropriate.

B) Statutory Authority: Sections 9.1(e) and 27 of the Environmental Protection Act [415 ILCS 5/9.1(e) & 27].

C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting. The Board will then schedule and conduct at least one public hearing, as required by Section 118 of the federal Clean Air Act (CAA) for amendment of the Illinois ozone SIP.

D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by August, 1998, after which time the Board would cause a Notice of Proposed Amendments to appear in the *Illinois Register* if any federal amendments have occurred. Section 9.1(e) of the Act provides that the Board must adopt amendments based on the federal amendments involved within one year of the date of those amendments. The Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register* shortly after any vote to propose amendments, and it will accept public comments on the proposal for 45 days after the date of publication.

E) Affect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small businesses, small municipalities, and not-for-profit corporations in Illinois to the extent the affected entities engage in the emission of a chemical compound that is the subject of a proposed exemption or proposed deletion from the list of exempted compounds.

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R99-5, as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting docket number R99-5, as follows:

Amy M. Muran-Felton, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312-814-7011
Internet: amuranf@pcb084rl.state.il.us

G) Related Rulemakings and other pertinent information: Another prospective proceeding (see item (f) below) and other, as yet unknown, unrelated Board proceedings could potentially impact the general provisions of Parts 211.

f) Part (Heading and Code Citation):

Definitions and General Provisions (35 Ill. Adm. Code 211)
Organic Material Emission Standards and Limitations for the Chicago Area (35 Ill. Adm. Code 218)
Organic Material Emission Standards and Limitations for the Metro East Area (35 Ill. Adm. Code 219)

1) Rulemaking: No docket presently reserved.

A) Description: The IEPA is currently developing amendments for proposal to the Board to accomplish several goals in a single cleanup rulemaking. This includes amendments to the Illinois rules for the 15% ROP Plan rulemaking required pursuant to Section 182(b)(1) of the CAA. (1) The rulemaking may amend existing air pollution control rules for lithographic printing operations to clean up the existing language. The rulemaking is intended to make Parts 218 and 219 consistent with revisions to 35 Ill. Adm. Code Part 211 (Definitions) and to be consistent with recent revisions to these rules pursuant to the 15% ROP Plan rulemakings. (2) The rulemaking may include amendments to existing rules for volatile organic liquid storage tank. (3) The rulemaking may include a rule to amend existing rules for perchlorethylene dry

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

cleaners, since perchloroethylene was delisted as a VOM by USEPA. (4) The rulemaking may amend existing rules for capture efficiency testing. This rulemaking is intended to make State rules consistent with USEPA's final rule on the revised capture efficiency test methods. (5) The rulemaking may correct minor or nonsubstantive errors in previous 15% ROP Plan rulemakings, amending rules for incorporations by reference, batch operations, afterburner operation, air oxidation reactors and vapor collection and control systems, and the generic Subparts. (7) The rulemaking may also amend Part 211 to conform any possible conflicting provisions with the changes made to 35 Ill. Adm. Code 218 and 219.

B) Statutory Authority: Implementing Section 9.8 and authorized by Sections 27, 28.2, and 28.5 of the Illinois Environmental Protection Act [415 ILCS 5/9.8, 27, 28.2 & 28.5].

C) Scheduled meeting/hearing dates: A late-Fall 1998 IEPA submittal to the Board of the proposal is expected. No hearings are scheduled at this time for proposals not yet submitted. Once a proposal is filed, the Board will hold hearings on the schedule established in Section 27 or 28.5 for those rulemakings required under the federal CAA.

D) Date Agency anticipates First Notice: A late Fall 1998 IEPA submittal to the Board of the proposal is expected, after which the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.

E) Affect on small business, small municipalities, or not-for-profit corporation: The proposal would affect a small business, a small municipality, or a not-for-profit corporation that emit volatile organic material. However, the IEPA anticipates that the amendments will have no new substantive impact on any sources, since the amendments will merely act as a clean-up of existing requirements.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda as follows:

Kathleen M. Crowley, Senior Attorney
Pollution Control Board

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601
312-814-6929
Internet: kcrowley@pcb084rl.state.il.us

G) Other pertinent information concerning these amendments: The presently reserved identical-in-substance definition of VOM update docket, R99-5 (see item (e) above) and other, as yet unknown, unrelated Board proceedings could potentially impact the general provisions of Parts 211. No other presently-known prospective proceeding would potentially impact the general provisions of Part 218 or Part 219.

There have been a number of amendments to Parts 211, 218, and 219 during the past two years. This rulemaking may also clean-up some limited portions of the recently completed rules. Any rules addressing companies that specialize in solvent collection and recycling will not occur until the IEPA has met with potentially affected sources to discuss any proposed rules. The IEPA will meet with interested persons prior to submitting a proposal to the Board. To participate in these meetings, interested persons should contact:

Deborah Williams
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217-782-5544

g) Parts (Headings and Code Citations): Vehicle Scrappage (35 Ill. Adm. Code 242)

1) Rulemaking: No docket number presently reserved.

A) Description: The IEPA is currently preparing a regulatory proposal for submission to the Board. The prospective amendments would augment the Emissions Reduction Market System in the Chicago non-attainment area, defining creditable emissions reductions through a vehicle scrappage program. The proposal would include requirements for sponsoring entities to augment allocation of allotted trading units through the purchase and scrappage of older, high emissions vehicles.

B) Statutory Authority: Implementing Section 13B-30(e) of the Vehicle Emissions Inspection Law of 1995 [625 ILCS 5/13B-30(e)]

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

and authorized by Sections 27 of the Environmental Protection Act [415 ILCS 5/27].

- C) Scheduled meeting/hearing dates: An IEPA submittal of a proposal to the Board will commence this proceeding, and that submittal is anticipated in Fall of 1998. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct at least two public hearings in affected areas of the State, as required by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].

- D) Date Agency Anticipates First Notice: An IEPA submittal of a proposal to the Board will commence this proceeding, and that submittal is anticipated in Fall of 1998, after which time the Board will cause a Notice of Proposed Rules to appear in the *Illinois Register*.

- E) Affect on small business, small municipalities, or not-for-profit corporations: This rule may affect any small business, small municipality, or not-for-profit corporation if these entities elected to participate in the vehicle scrappage program.

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda as follows:

Marie E. Tipson, Attorney
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601
312-814-4925 or 618-498-9803
Internet: mtipsord@pcb084rl.state.il.us

- G) Other pertinent information concerning these amendments: No other presently-known proceeding would impact the general provisions of Part 242.

The IEPA will schedule meetings with affected sources before a proposal is filed with the Board. If you have any questions concerning development of the IEPA proposal, please contact:

Bonnie R. Sawyer

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217-782-5544

- h) Parts (Headings and Code Citations): Air Quality Standards (35 Ill. Adm. Code 243)

- 1) Rulemaking: No docket number presently assigned.

- A) Description: 35 Ill. Adm. Code 243 contains the National Ambient Air Quality Standards (NAAQS) for criteria pollutants. On July 18, 1997 (at 62 Fed. Reg. 38651), the USEPA promulgated new and revised air quality standards for ozone and particulate matter. The IEPA is currently developing a proposal for submission to the Board of conforming amendments to Part 243. The IEPA may also revise sections in 35 Ill. Adm. Code 211 to add updated definitions for particulate matter.

- B) Statutory Authority: Implementing Section 10 and authorized by Sections 27 and 28.5 of the Illinois Environmental Protection Act [415 ILCS 5/9.8, 27 & 28.5].

- C) Scheduled meeting/hearing dates: An IEPA submittal of a proposal to the Board will commence this proceeding, and that submittal is anticipated in Fall of 1998. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct at least two public hearings in affected areas of the State, as required by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].

- D) Date agency anticipates First Notice: An IEPA submittal of a proposal to the Board will commence this proceeding, and that submittal is anticipated in Fall of 1998, after which time the Board will cause a Notice of Proposed Rules to appear in the *Illinois Register*.

- E) Affect on small business, small municipalities, or not-for-profit corporation: This rule may affect any small business, small municipality, or not-for-profit corporation if these entities discharge a pollutant regulated under an NAAQS. However, the IEPA does not anticipate that these conforming amendments will substantively impact these entities, since the entities are already subject to the federal NAAQS as a matter of State and federal law.

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda as follows:

Kathleen M. Crowley, Senior Attorney
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601
312-814-6929
Internet: kcrowley@pcb084rl.state.il.us

- G) Related rulemakings and other pertinent information: No other presently-known proceeding would affect the text of new Part 243.

Address questions concerning development of the IEPA proposal as follows:

Rachel L. Doctors
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62794-9276
217/524-3337

- i) Part (Headings and Code Citations): Water Quality Standards (35 Ill. Adm. Code 302)

- 1) Rulemaking: No docket number presently reserved.

- A) Description: The IEPA is developing a rulemaking proposal for filing before the Board. The prospective rules would establish the criteria to be used by the IEPA in ensuring compliance of individual dischargers with the nondegradation provisions of the water pollution control requirements, pursuant to 35 Ill. Adm. Code 302.105.

- B) Statutory Authority: Implementing Section 13 and authorized by Section 27 of the Illinois Environmental Protection Act [415 ILCS 5/13 & 27].

- C) Scheduled meeting /hearing date: The IEPA presently anticipates

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

filing this regulatory proposal before the Board in the Summer of 1998. Once the proposal is filed, the Board will hold hearings in accordance with the requirements established by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].

- D) Date agency anticipates First Notice: The IEPA presently anticipates filing this regulatory proposal before the Board in the Summer of 1998, after with the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.

- E) Effect on small businesses, small municipalities, or not-for-profit corporations: The prospective regulations would impact a small business, a small municipality, or a not-for-profit corporation that discharges pollutants to streams so as to become subject to the National Pollutant Discharge Elimination System (NPDES) requirements. The regulations could result in adjustment of the allowable pollutant discharges by the affected facility.

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda as follows:

Kathleen M. Crowley, Senior Attorney
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, IL 60601
312-814-6929
Internet: kcrowley@pcb016rl.state.il.us

- G) Related rulemaking and other pertinent information: No other presently known proceeding would impact the general provisions of Part 302.

For information regarding the development of the IEPA proposal, please contact the following person at IEPA at the address and number set forth:

Toby Frevert
Bureau of Water
Illinois Environmental Protection Agency
1021 Grand Ave. East
Springfield, IL 62794-9276

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

(217) 782-1654

j) Part (Heading and Code Citation): Effluent Standards (35 Ill. Adm. Code 304)

1) Rulemaking: No docket presently reserved.

A) Description: The IEPA is presently developing a rulemaking proposal for filing before the Board that would amend Section 304.222 to allow the acute water quality standard for total residual chlorine (TRC) to be inapplicable to intermittent discharges.

B) Statutory Authority: Implementing Section 13 and authorized by Section 27 of the Illinois Environmental Protection Act [415 ILCS 5/13 & 27].

C) Scheduled meeting/hearing dates: None have been scheduled at this time. Once the IEPA files its rulemaking proposal before the Board, the Board will schedule at least two public hearings in affected areas of the State as required by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].

D) Date agency anticipates First Notice: The IEPA presently anticipates filing this regulatory proposal before the Board in the Summer of 1998, after with the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.

E) Affect on small business, small municipalities, or not-for-profit corporations: The prospective amendments may affect small business, small municipalities, or not-for-profit corporations to the extent that they own or operate a facility that engages in an intermittent discharge that contains TRC.

F) Agency contact person for information: Address written comments concerning the substance of this prospective rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda as follows:

Kathleen M. Crowley, Senior Attorney
Pollution Control Board

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

312-814-6929

Internet: kerowley@pcb084rl.state.il.us

G) Related Rulemakings and other pertinent information: No other presently-known proceeding would impact the general provisions of Part 304.

For information regarding the development of the IEPA proposal, please contact the following person at IEPA at the address and number set forth:

Toby Frevort
Bureau of Water
Illinois Environmental Protection Agency
1021 Grand Ave. East
Springfield, IL 62794-9276
(217) 782-1654

k) Parts (Headings and Code Citations):

Sewer Discharge Criteria (35 Ill. Adm. Code 307)
Pretreatment Programs (35 Ill. Adm. Code 310)

1) Rulemaking: Docket number R99-4

A) Description: Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] mandates that the Board update the Illinois wastewater pretreatment regulations to reflect the USEPA wastewater pretreatment rules.

The Board has reserved docket number R99-4 to accommodate any amendments to the 40 CFR 300 through 499 that the USEPA may have made in the period January 1, 1998 through June 30, 1998 relating to wastewater pretreatment. At this time, the Board is aware that USEPA adopted integrated air, water, and hazardous waste rules applicable to the pulp and paper manufacturing industry category on April 15, 1998 (63 Fed. Reg. 18503), which will likely require corresponding amendments to the Illinois wastewater pretreatment regulations. The Board has not yet verified whether any federal actions have occurred that will require further amendments to the Illinois wastewater pretreatment regulations. The Board will do so in coming weeks by about mid-August 1998. The Board will propose corresponding amendments to the wastewater pretreatment regulations using the identical-in-substance procedure.

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

- B) Statutory Authority: Implementing Section 13 and 13.3 and authorized by Section 27 of the Illinois Environmental Protection Act [415 ILCS 5/13, 13.3 & 27].
- C) Scheduled meeting/hearing dates None scheduled at this time. If the Board determines to propose amendments, the Board will vote to do so at an open meeting. No public hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by August 1998, after which time the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register* if any federal amendments have occurred. Section 13.3 of the Act provides that the Board must adopt amendments based on the federal amendments involved within one year of the date of those amendments. In this instance, if that date is assumed to be April 15, 1998, the deadline for final adoption of any amendments would be April 15, 1999. The Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register* shortly after any vote to propose amendments, and it will accept public comments on the proposal for 45 days after the date of publication.
- E) Affect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect small businesses, small municipalities, and not-for-profit corporations in Illinois to the extent the affected entities engage in the discharge of pollutants into the collection system of a publicly-owned treatment works that is the subject of any federal amendments.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R99-4, as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting docket number R99-4, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312-814-6924

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

- Internet: mmccambr@pcb084r1.state.il.us
- G) Related Rulemakings and other pertinent information: Another prospective proceeding (see item (n) below), and other, as yet unknown, unrelated Board proceedings could potentially impact the general provisions of Part 310. No other presently-known proceeding would impact the general provisions of Part 307.
- Section 13.3 of the Environmental Protection Act provides that Title VII of the Act and Section 5 of the Administrative Procedure Act [5 ILCS 100/5-35 & 5-40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by JCAR. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.
- 1) Parts (Headings and Code Citations): NPDES Permits (35 Ill. Adm. Code 309)
- 1) Rulemaking: No docket number presently reserved.
- A) Description: The IEPA is developing a rulemaking proposal for filing before the Board. The prospective rules would establish the criteria to be used by the IEPA to establish mixing zones for individual dischargers as necessary to ensure compliance with water quality standards, pursuant to 35 Ill. Adm. Code 302.102.
- B) Statutory Authority: Implementing Section 13 and authorized by Section 27 of the Illinois Environmental Protection Act [415 ILCS 5/13 & 27].
- C) Scheduled meeting/hearing date: The IEPA presently anticipates filing this regulatory proposal before the Board in the Summer of 1998. Once the proposal is filed, the Board will hold hearings in accordance with the requirements established by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].
- D) Date agency anticipates First Notice: The IEPA presently anticipates filing this regulatory proposal before the Board in the Summer of 1998. Once the proposal is filed, the Board will hold hearings in accordance with the requirements established by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].
- E) Effect on small businesses, small municipalities, or

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

not-for-profit corporations: The prospective regulations could impact a small business, a small municipality, or a not-for-profit corporation that discharges pollutants into a receiving stream in Illinois. The rules would impact an entity for which a mixing zone is established as a means of demonstrating compliance with the water pollution control regulations.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda as follows:

Kathleen M. Crowley, Senior Attorney
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, IL 60601
312-814-6929
Internet: kcrowley@pcb016rl.state.il.us

G) Related rulemaking and other pertinent information: Another prospective IEPA proposal (see item (m) below) and other, as yet unknown proceedings could affect the text of Part 309.

For information regarding the development of the IEPA proposal, please contact the following person at IEPA at the address and number set forth:

Toby Frevert
Bureau of Water
Illinois Environmental Protection Agency
1021 Grand Ave. East
Springfield, IL 62794-9276
(217) 782-1654

m) Parts (Headings and Code Citations): NPDES Permits (35 Ill. Adm. Code 309)

1) Rulemaking: No docket number presently reserved.

A) Description: The IEPA is developing a rulemaking proposal for filing before the Board. The prospective rules would establish the criteria to be used by the IEPA to establish effluent limits

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

necessary to ensure compliance with water quality standards for individual dischargers, pursuant to 35 Ill. Adm. Code 304.105.

B) Statutory Authority: Implementing Section 13 and authorized by Section 27 of the Illinois Environmental Protection Act [415 ILCS 5/13 & 27].

C) Scheduled meeting/hearing date: The IEPA presently anticipates filing this regulatory proposal before the Board in the Summer of 1998. Once the proposal is filed, the Board will hold hearings in accordance with the requirements established by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].

D) Date agency anticipates First Notice: The IEPA presently anticipates filing this regulatory proposal before the Board in the Summer of 1998. Once the proposal is filed, the Board will hold hearings in accordance with the requirements established by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].

E) Effect on small businesses, small municipalities, or not-for-profit corporations: The prospective regulations would impact a small business, a small municipality, or a not-for-profit corporation that discharges pollutants to streams so as to become subject to the National Pollutant Discharge Elimination System (NPDES) requirements. The regulations could result in adjustment of the allowable pollutant discharges by the affected facility.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda as follows:

Kathleen M. Crowley, Senior Attorney
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, IL 60601
312-814-6929
Internet: kcrowley@pcb016rl.state.il.us

G) Related rulemaking and other pertinent information: Another prospective IEPA proposal (see item (l) above) and other, as yet unknown proceedings could affect the text of Part 309.

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

For information regarding the development of the IEPA proposal, please contact the following person at IEPA at the address and number set forth:

Toby Frevert
Bureau of Water
Illinois Environmental Protection Agency
1021 Grand Ave. East
Springfield, IL 62794-9276
(217) 782-1654

n) Part(s) (Heading and Code Citation): Pretreatment Programs (35 Ill. Adm. Code 310)

1) Rulemaking: No Docket presently reserved.

A) Description: The IEPA is presently developing a rulemaking proposal for filing with the Board that would amend the Pretreatment Program removal credit regulations to incorporate provisions for the federal sludge management rules published by the USEPA on February 19, 1993 (58 Fed. Reg. 9248) in preparation for the State's application for delegation of the federal pretreatment and sludge management programs.

B) Statutory Authority: Implementing Sections 13 and 13.3 and authorized by Section 27 of the Illinois Environmental Protection Act [415 ILCS 5/13, 13.3 & 27].

C) Scheduled meeting/hearing dates: No meetings are scheduled at this time. Once the proposal is filed, presently anticipated in the Summer of 1998, the Board will conduct public hearings in accordance with the requirements established by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].

D) Date agency anticipates First Notice: IEPA submittal of a proposal to the Board will commence this proceeding and is expected to be filed in the Summer of 1998, after which time the Board will cause a Notice of Proposed Rules to appear in the Illinois Register.

E) Affect on Small Businesses, small municipalities, or not-for-profit corporations: The amendments may affect any small businesses, small municipalities and not-for-profit corporations that discharge or receive for treatment industrial waste water.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda as follows:

Kathleen M. Crowley, Senior Attorney
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601
312-814-6929

Internet: kcrowley@pcb084rl.state.il.us

G) Related rulemaking and other pertinent information: In addition to the noted amendments to the pretreatment program, the IEPA anticipates amending its Design Criteria for Sludge Application on Land (35 Ill. Adm. Code 391) to incorporate amendments in 40 CFR 503.

A prospective identical-in-substance wastewater pretreatment program update rulemaking, R99-4 (see item (k) above), and other, as yet unknown, unrelated Board proceedings could potentially impact the general provisions of Part 310.

For information regarding the IEPA's development of this proposal, please contact:

Tom McSwiggin
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
217-782-0610

o) Parts (Headings and Code Citations):

General Provisions (35 Ill. Adm. Code 501)
Permits (35 Ill. Adm. Code 502)
Other Agricultural and Silvicultural Activities (35 Ill. Adm. Code 503)
Implementation Program (35 Ill. Adm. Code 504)

1) Rulemaking: Docket Number R98-11

A) Description: The Livestock Management Facilities Act (Livestock Act) (516 ILCS 77), effective May 21, 1996, sets forth an outline for the proper design, construction, operation, and management of

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

livestock management facilities and associated waste handling structures. The Livestock Act also directs that the Board adopt rules for the implementation of the Livestock Act within six months after the Department of Agriculture filed proposed rules with the Board. On May 15, 1997, the Board adopted such rules for implementation by the Department of Agriculture. See 35 Ill. Adm. Code 506. In adopting such rules for second notice, the Board noted that it already had regulations specific to livestock waste management facilities and that any inconsistencies between these two sets of rules should be reconciled. Accordingly, the Board opened this rulemaking on September 4, 1997, to identify and reconcile any inconsistencies between the Board regulations adopted to implement the Livestock Act and previously existing regulations concerning agricultural-related pollution adopted by the Board (35 Ill. Adm. Code 501 through 504). Since opening this rulemaking docket, however, Public Act 90-565 was signed into law which again amended the Livestock Act. Since Part 506 will need to be amended to incorporate the recent amendments to the Livestock Act, the Board on January 22, 1998, entered an order staying this rulemaking until the amendments to Part 506 are completed.

B) Statutory Authority: Implementing Sections 9, 13, and 22 and authorized by Section 27 of the Illinois Environmental Protection Act [415 ILCS 5/9, 13, 22 & 27].

C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled at this time. However, the Board will conduct public hearings in accordance with the requirements established by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].

D) Date agency anticipates First Notice: The Board may cause First Notice publication of a Notice of Proposed Rules and Notice of Proposed Amendments in the *Illinois Register* in the Winter of 1998, after which time the Board will cause a Notice of Proposed Rules to appear in the *Illinois Register*.

E) Affect on small business, small municipalities, or not-for-profit corporations: These amendments may affect small business, small municipalities, or not-for-profit corporations to the extent that they own or operate a livestock management facility or associated waste handling structures.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R98-11, as follows:

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting docket number R98-11, as follows:

Cynthia Ervin, Attorney
Pollution Control Board
600 S. Second Street, Suite 402
Springfield, Illinois 62704
217-524-8509
Internet: cervin@pcb084rl.state.il.us

G) Related Rulemakings and other pertinent information: Reserved rulemaking R98-26 (see item (p) below) and other, as yet unknown, proceedings could impact the provisions of associated 35 Ill. Adm. Code 506. No other presently-known proceeding would impact 35 Ill. Adm. Code 501 through 504.

P) Parts (Headings and Code Citations): Livestock Waste Regulations (35 Ill. Adm. Code 506)

1) Rulemaking: Docket Number R98-26

A) Description: The Livestock Management Facilities Act (Livestock Act) (516 ILCS 77), effective May 21, 1996, sets forth an outline for the proper design, construction, operation, and management of livestock management facilities and associated waste handling structures. The Livestock Act also directs that the Board adopt rules for the implementation of the Livestock Act within six months after the Department of Agriculture filed proposed rules with the Board. On May 15, 1997, the Board adopted such rules for implementation by the Department of Agriculture. See 35 Ill. Adm. Code 506. Since adoption of those rules, the legislature amended the Livestock Act. See Public Act 90-565 (effective January 2, 1998). The Board opened this rulemaking on January 22, 1998, to request the Department of Agriculture to file a rulemaking proposal to incorporate and implement the amendments to the Livestock Act into the Board's regulations at 35 Ill. Adm. Code 506.

B) Statutory Authority: Implementing Section 55 of the Livestock Management Facilities Act [516 ILCS 77/55] and authorized by Section 27 of the Illinois Environmental Protection Act [415 ILCS 5/27].

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

- C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled at this time. However, the Board will conduct public hearings in accordance with the requirements established by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].
- D) Date agency anticipates First Notice: The Board may cause First Notice publication of a Notice of Proposed Rules and Notice of Proposed Amendments in the *Illinois Register* in the Winter of 1998, after which time the Board will cause a Notice of Proposed Rules to appear in the *Illinois Register*.
- E) Affect on small business, small municipalities, or not-for-profit corporations: These amendments may affect small business, small municipalities, or not-for-profit corporations to the extent that they own or operate a livestock management facility or associated waste handling structures.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R98-11, as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting docket number R98-11, as follows:

Cynthia Ervin, Attorney
Pollution Control Board
600 S. Second Street, Suite 402
Springfield, Illinois 62704
217-524-8509
Internet: cervin@cb084rl.state.il.us

- G) Related Rulemakings and other pertinent information: Pending rulemaking R98-26 (see item (o) above) could impact the provisions of associated 35 Ill. Adm. Code 501 through 504. No other presently-known proceeding would affect 35 Ill. Adm. Code 506.

4) Part(s) (Heading and Code Citation): Permits (35 Ill. Adm. Code 602)

- 1) Rulemaking: No docket presently reserved.

A) Description: The IEPA is preparing a rulemaking proposal for

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

filing before the Board to establish criteria for the design, operation, and maintenance of public water supplies, and rules to facilitate the permitting process.

- B) Statutory Authority: Implementing Section 17 and authorized by Section 27 of the Illinois Environmental Protection Act [415 ILCS 5/17 & 27].
- C) Scheduled meeting/hearing dates: Filing of the IEPA proposal is anticipated by December 1998. After the IEPA submits the proposal before the Board, the Board will conduct public hearings on the proposal pursuant to Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].
- D) Date agency anticipates First Notice: An IEPA submittal of the rulemaking proposal is anticipated by December 1998. The Board will conduct proceedings pursuant to Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28] upon receipt of the proposal and will cause a Notice of Proposed Amendments to appear in the *Illinois Register* when it proposes amendments for First Notice.

E) Affect on small businesses, small municipalities, or not-for-profit corporations: This rulemaking will affect small businesses, small municipalities, and not-for-profit corporations to the extent these entities design, operate, or maintain a public water supply or engage in the permitting process. The IEPA anticipates that the rules will generally benefit these entities by clarifying the requirements for facility operations and permits. The rules may impose additional reporting requirements.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda as follows:

Kathleen M. Crowley, Senior Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312-814-6929
Internet: kcrowley@pcb084rl.state.il.us

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

- G) Related Rulemaking and other pertinent information: No other presently-known proceeding would impact the provisions of Part 602.

Interested persons may contact the IEPA about its prospective rulemaking proposal as follows:

Charles Bell
 Section Manager, Field Operations Services Section
 Division of Public Water Supplies
 Bureau of Water
 Illinois Environmental Protection Agency
 1021 North Grand Avenue East
 P.O. Box 19276
 Springfield, IL 62794-9276
 217-782-8653

- 2) Part(s) (Heading and Code Citation): Primary Drinking Water Standards (35 Ill. Adm. Code 611)

- 1) Rulemaking: Docket number R99-6

- A) Description: Section 17.5 of the Environmental Protection Act (Act) [415 ILCS 5/17.5 (1994)] mandates that the Board update the Illinois Safe Drinking Water Act (SDWA) regulations to reflect the USEPA amendments to the federal SDWA primary drinking water regulations.

The Board has reserved docket number R99-6 to accommodate any amendments to the 40 CFR 141, 142, and 143 SDWA primary drinking water regulations that USEPA may make in the period January 1, 1998, through June 30, 1998. At this time, the Board is aware of a single federal action that could require amendments to the Illinois SDWA regulations. On April 28, 1998 (63 Fed. Reg. 23361), USEPA amended its rules that govern its own review of State programs and which set forth the requirements for State programs. Among the amendments are amendments to definitions that are part of the substantive SDWA rules. The Board will evaluate this federal action and confirm the existence of any others in coming weeks, by August, 1998, as to what actions, if any, the Board must undertake in response. If that verification indicates that no action by the Board is necessary, the Board will dismiss the docket. If, on the other hand, amendments are then indicated, the Board will propose corresponding amendments to the SDWA regulations using the identical-in-substance procedure.

- B) Statutory Authority: Implementing Sections 17 and 17.5 and

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/17, 17.5 & 27].

- C) Scheduled meeting/hearing dates: None scheduled at this time. If the Board determines to propose amendments, the Board will vote to do so at an open meeting. No public hearing is required in identical-in-substance proceedings.

- D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to evaluate the April 28, 1998, federal action and confirm the existence of any others in coming weeks, by August 1998, as to what actions, if any, the Board must undertake in response. After that evaluation the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register* if any federal actions require amendment of the Illinois SDWA rules. Section 17.5 of the Act provides that the Board must adopt amendments based on the federal amendments involved within one year of the date of those amendments. In this instance, if that date is assumed to be April 28, 1998, the deadline for final adoption of any amendments would be April 28, 1999. The Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register* shortly after any vote to propose amendments, and it will accept public comments on the proposal for 45 days after the date of publication.

- E) Affect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect small businesses, small municipalities, and not-for-profit corporations in Illinois to the extent the affected entities own or operate a "public water supply", as defined by Section 3.28 of the Act, i.e., it has at least fifteen service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year, or it is assisting a public water supply to demonstrate compliance.

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R99-6, as follows:

Dorothy Gunn, Clerk
 Pollution Control Board
 100 West Randolph Street Suite 11-500
 Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting docket number R99-6, as follows:

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

Michael J. McCambridge, Attorney
 Pollution Control Board
 100 West Randolph Street Suite 11-500
 Chicago, Illinois 60601
 312-814-6924
 Internet: mmccamb@pcb084rl.state.il.us

- G) Related Rulemakings and other pertinent information: Reserved rulemaking, R97-30 (see item (s) below), and other, as yet unknown, unrelated Board proceedings could potentially impact the general provisions of Part 611.

Section 17.5 of the Act provides that Title VII of the Act and Section 5 of the Administrative Procedure Act [5 ILCS 100/5-35 and 5-40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by JCAR. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

- s) Parts (Headings and Code Citations): Primary Drinking Water Standards (35 Ill. Adm. Code 611)

1) Rulemaking: Docket Number R97-30.

- A) Description: On June 19, 1997, the Board accepted a proposal filed June 2, 1997 by the IEPA. The IEPA proposal seeks to amend the public water supplies rules found in 35 Ill. Adm. Code 611 to cross-reference the IEPA's own laboratory accreditation rules adopted as 35 Ill. Adm. Code 186. (22 Ill. Reg. 5546, effective March 4, 1998). Currently, the existing text of Part 611 references 35 Ill. Adm. Code 183, which are joint rules of the IEPA, the Illinois Department of Public Health, and the Illinois Department of Nuclear Safety. A repeal of Part 183 is pending.

- B) Statutory Authority: Implementing Sections 17 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/17 & 27].

- C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled at this time. The Board will conduct at least two public hearings in separate areas of the State on the prospective amendments to Part 611 in accordance with the requirements of Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

- D) Date Agency Anticipates First Notice: Board proceedings were stayed pending IEPA completion of its rulemaking to adopt 35 Ill. Adm. Code 186, which occurred in March 1998. The Board is now waiting for the IEPA to submit an amended proposal for Board consideration. When the Board adopts a First Notice opinion and order in this matter, it will cause a Notice of Proposed Amendments to appear in the *Illinois Register*.

- E) Affect on small business, small municipalities, or not-for-profit corporations: These amendments may affect a small business, small municipality, or not-for-profit corporation that owns or operates a "public water supply", as defined by Section 3.28 of the Act, i.e., it has at least fifteen service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year, or it is assisting a public water supply to demonstrate compliance with the federally-derived National Primary Drinking Water Standards of 35 Ill. Adm. Code 611. However, it is anticipated that the proceeding will not likely have a quantifiable effect on these entities because the program for national laboratory certification is voluntary. The burden of compliance with the requirements, such as filing documentation, reporting or completion of the necessary forms, likely will not increase.

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R97-30, as follows:

Dorothy Gunn, Clerk
 Pollution Control Board
 100 W. Randolph Street, Suite 11-500
 Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting docket number R97-30, rulemaking as follows:

John C. Knittle, Attorney
 Pollution Control Board
 100 West Randolph Street, Suite 11-500
 Chicago, Illinois 60601
 312-814-3473
 Internet: jknittle@pcb084rl.state.il.us

- G) Other pertinent information concerning these amendments: The presently-reserved routine identical-in-substance SDWA update docket, R98-18 (see item (r) above), and other, as yet unknown, unrelated Board proceedings could potentially impact the provisions of Part 611.

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

- t) Part(s) (Heading and Code Citation): Regulated Recharge Areas (35 Ill. Adm. Code 617)

- 1) Rulemaking: No docket presently reserved.

A) Description: The IEPA is preparing a rulemaking proposal for filing before the Board that would establish a regulated recharge area for the Pleasant Valley Public Water District. This new Subpart would prescribe the requirements and standards for the protection of the Pleasant Valley Public Water District for certain types of existing or new potential sources or routes of groundwater contamination located wholly or partially within the regulated recharge area boundary delineated in the amendments.

B) Statutory Authority: Implementing Sections 17.3 and 17.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/17.3, 17.4 & 27].

C) Scheduled meeting/hearing dates: An IEPA submittal of the rulemaking proposal is anticipated by August 10, 1998. In preparing the proposal, the IEPA has held a public hearing pursuant to 35 Ill. Adm. Code 164 on the proposal for a regulated recharge area on January 26, 1995. Public comments on the proposal were received. On June 7, 1996, a workshop was held on the proposal. The IEPA has not set dates for further meetings. When the proposal is submitted before the Board, the Board will conduct public hearings on the proposal pursuant to Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/ 27 & 28].

D) Date agency anticipates First Notice: An IEPA submittal of the rulemaking proposal is anticipated by August 1998. The Board will conduct proceedings pursuant to Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28] upon receipt of the proposal and will cause a Notice of Proposed Amendments to appear in the *Illinois Register* when it decides to propose amendments for First Notice.

E) Affect on small businesses, small municipalities, or not-for-profit corporations: Small businesses, small municipalities, or not-for-profit corporations that engage in certain activities in the affected area may be affected by contingency planning requirements that would be part of the amendments, and they may have constraints upon expansion of activities that are hazardous to the groundwater protected by the regulated recharge area.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda as follows:

Kathleen M. Crowley, Senior Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312-814-6929
Internet: kcrowley@pcb084rl.state.il.us

G) Related Rulemaking and other pertinent information: No other presently-known proceeding would impact the provisions of Part 617.

Interested persons may contact the IEPA about its prospective rulemaking proposal as follows:

Rick Cobb
Section Manager, Groundwater Section
Division of Public Water Supplies
Bureau of Water
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
217-782-8653

u) Part(s) (Heading and Code Citation): Maximum Setback Zones (35 Ill. Adm. Code 618)

- 1) Rulemaking: No docket presently reserved.

A) Description: The IEPA is preparing a rulemaking proposal for filing before the Board that would establish general provisions for maximum setback zone regulations. This new Part would, in subpart B, prescribe maximum setback zone prohibitions and the applicable technology control regulations that apply under existing regulations for new and existing potential primary sources of groundwater contamination, new potential routes of groundwater contamination and new and existing activities regulated under 35 Ill. Adm. Code 615, 35 Ill. Adm. Code 616 and 8 Ill. Adm. Code 257 that are located wholly or partially within the maximum setback zone boundaries of the Illinois American Water

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

Company, Peoria, wells as delineated within the prospective regulation.

- B) Statutory Authority: Implementing Section 14.3 and authorized by Section 27 of the Illinois Environmental Protection Act [415 ILCS 5/14.3 & 5/27].

C) Scheduled meeting/hearing dates: In preparing the proposal, the IEPA has met extensively with members of the Peoria City Council, the local business community, and representatives of Illinois American Water Company. The Council recognized the need for a maximum setback zone regulation. No new meetings are scheduled at this time. When the proposal is submitted before the Board, the Board will conduct public hearings on the proposal pursuant to Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/ 27 & 28].

D) Date agency anticipates First Notice: An IEPA submittal of the rulemaking proposal is anticipated by December 1998. The Board will conduct proceedings pursuant to Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/ 27 & 28] upon receipt of the proposal and will cause a Notice of Proposed Amendments to appear in the *Illinois Register* when it decides to propose amendments for First Notice.

E) Affect on Small Businesses, small municipalities, or not-for-profit corporations: Small businesses, small municipalities, or not-for-profit corporations that engage in certain activities in the affected area may be affected by having constraints imposed upon new activities within the maximum zone.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda as follows:

Kathleen M. Crowley, Senior Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312-814-6929
Internet: kcrowley@pcb084rl.state.il.us

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

- G) Related Rulemaking and other pertinent information: No other presently-known proceeding would impact the provisions of Part 618.

Interested persons may contact the IEPA about its prospective rulemaking proposal as follows:

Rick Cobb
Section Manager, Groundwater Section
Division of Public Water Supplies
Bureau of Water
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
217-782-8653

v) Part(s) (Heading and Code Citation): Groundwater Quality (35 Ill. Adm. Code 620)

- 1) Rulemaking: No docket presently reserved.

A) Description: The IEPA is considering filing a rulemaking proposal before the Board. The proposal would amend Section 620.505 of the groundwater quality regulations (35 Ill. Adm. Code 620.505) in response to an interpretation of that Section by the appellate court in *People v. Stonehedge* (94-CH-46, May 22, 1997). Compliance monitoring points are broken into different categories in Section 620.505. Samples taken from potable water wells other than community water supply wells is acceptable under certain circumstances. The amendments would seek to expand those circumstances to instances in which the IEPA has sufficient hydrogeologic, geologic, construction, and other information to determine the reliability of data generated by analyses of samples from those wells. The amendment would provide increased protection of the groundwater by allowing sampling of greater sampling points.

B) Statutory Authority: Implementing Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55/8] and authorized by Section 27 of the Illinois Environmental Protection Act [415 ILCS 5/27].

C) Scheduled meeting/hearing dates: When the proposal is submitted before the Board, the Board will conduct public hearings on the proposal pursuant to Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/ 27 & 28].

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

D) Date agency anticipates First Notice: An IEPA submittal of the rulemaking proposal is anticipated by December 1998. The Board will conduct proceedings pursuant to Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28] upon receipt of the proposal and will cause a Notice of Proposed Amendments to appear in the *Illinois Register* when it decides to propose amendments for First Notice.

E) Affect on small businesses, small municipalities, or not-for-profit corporations: Small Businesses, small municipalities, or not-for-profit corporations would be affected by the amendments to the extent they engage in any activity that requires demonstration of compliance with the groundwater quality standards.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda as follows:

Kathleen M. Crowley, Senior Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312-814-6929
Internet: kcrowley@pcb084rl.state.il.us

G) Related Rulemaking and other pertinent information: No other presently-known proceeding would impact the provisions of Part 620.

Interested persons may contact the IEPA about its prospective rulemaking proposal as follows:

Rick Cobb
Section Manager, Groundwater Section
Division of Public Water Supplies
Bureau of Water
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
217-782-8653

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

w) Parts (Headings and Code Citations):

RCRA and UIC Permit Programs (35 Ill. Adm. Code 702)
RCRA Permit Program (35 Ill. Adm. Code 703)
Procedures for Permit Issuance (35 Ill. Adm. Code 705)
Hazardous Waste Management System: General (35 Ill. Adm. Code 720)
Identification and Listing of Hazardous Waste (35 Ill. Adm. Code 721)
Standards Applicable to Generators of Hazardous Waste (35 Ill. Adm. Code 722)
Standards Applicable to Transporters of Hazardous Waste (35 Ill. Adm. Code 723)
Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 724)
Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 725)
Standards for the Management of Specific Hazardous Waste and Specific Types of Hazardous Waste Management Facilities (35 Ill. Adm. Code 726)
Land Disposal Restrictions (35 Ill. Adm. Code 728)
Standards for Universal Waste Management (35 Ill. Adm. Code 733)
Standards for the Management of Used Oil (35 Ill. Adm. Code 739)

1) Rulemaking: Docket number R98-21

A) Description: Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] mandates that the Board update the Illinois Resource Conservation and Recovery Act (RCRA) Subtitle C regulations to reflect the USEPA amendments that occurred at this time.

The Board opened docket number R98-21 to accommodate any amendments to the RCRA Subtitle C program, 40 CFR 260 through 272, that USEPA made in the period July 1, 1997, through December 31, 1997. At this time, the Board is aware of the following federal actions that occurred in this time-frame:

62 Fed. Reg. 45568
(August 28, 1997)
A second emergency one-year extension of the alternative carbamate waste treatment standards for the land disposal restrictions, until August 26, 1998.

62 Fed. Reg. 48394
(September 15, 1997)
Amendment of the 40 CFR 136 CWA analytical methods (incorporated by reference in the Illinois RCRA Subtitle C regulations) to allow the use of a new method for dioxins and furans.

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

62 Fed. Reg. 64503
(December 5, 1997) Clarifying amendments to the land disposal restrictions relating to the authorization of treatment variances.

62 Fed. Reg. 64635
(December 8, 1997) Clarifying amendments to the Subpart CC organic material emissions rules applicable to tanks, containers, and surface impoundments.

The Board will verify the federal actions in the time-frame of this docket in the coming weeks, by August 1998. Upon completion of the presently-pending consolidated RCRA Subtitle C update docket, R97-21/R98-3/R98-5 (consolidated), the Board will propose corresponding amendments to the RCRA Subtitle C regulations using the identical-in-substance procedure.

Section 22.4(a) mandates that the Board complete our amendments within one year of the date on which USEPA adopted its action upon which our amendments are based. In docket R98-21, the earliest federal amendments in the time-frame of this docket that will require Board action are those of December 5, 1997, which will require Board adoption by December 5, 1998. If publication of a notice of reasons for delay is necessary, the Board will adopt an order setting forth reasons for delay and will cause a Notice of Public Information to appear in the *Illinois Register*.

B) Statutory Authority: Implementing Section 22.4(a) and authorized by 27 of the Environmental Protection Act (415 ILCS 5/22.4(a) & 27).

C) Scheduled meeting/hearing dates: None scheduled at this time. If the Board determines to propose amendments, the Board will vote to do so at an open meeting. No public hearing is required in identical-in-substance proceedings.

D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by end of August 1998, and complete the actions in the prior consolidated update docket, R97-21/R98-3/R98-5, by Fall 1998, after which time the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register* for this docket, R98-21. Section 22.4(a) of the Environmental Protection Act provides that the Board must adopt amendments based on the federal amendments involved within one year of the date of those amendments. In this instance, that date is December 5, 1997, which will require Board adoption by December 5, 1998. As a result of the delay in the prior consolidated identical-in-substance update dockets, R96-10/R97-3/R97-5, adopted

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

by the Board on November 6, 1997, and R97-21/R98-3/R98-5, proposed by the Board for public comment on May 21, 1998, progress in this docket will ultimately be unavoidably delayed. The Board cannot propose amendments in this docket until the amendments in the prior dockets are filed with the Secretary of State, at the earliest. The Board anticipates entering an order some time prior to December 1998, setting forth reasons for the delay and projecting a time for completion of this rulemaking. The Board will cause a Notice of Public Information to appear in the *Illinois Register* setting forth reasons for delay.

E) Affect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect small businesses, small municipalities, and not-for-profit corporations in Illinois to the extent the affected entities engage in the generation, transportation, treatment, storage, or disposal of hazardous waste.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R98-21, as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting docket number R98-21, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312-814-6924
Internet: mmccambr@pcb084rl.state.il.us

G) Related Rulemakings and other pertinent information: The presently-pending consolidated identical-in-substance RCRA Subtitle C and underground injection control (UIC) update docket R97-21/R98-3/R98-5, reserved RCRA Subtitle C update docket R99-2 (see item (x) below), and other, as yet unknown, unrelated Board proceedings could affect the text of Parts 702, 703, 705, 720 through 726, 728, 733, and 739. The reserved identical-in-substance underground injection control update docket R99-7 (see item (y) below) and other, as yet unknown, unrelated Board proceedings could potentially impact the provisions of Parts 702, 705, 730, and 738.

POLLUTION CONTROL BOARD
JULY 1998 REGULATORY AGENDA

- 63 Fed. Reg. 24595
(May 4, 1998)
- USEPA adopted waste listings and land disposal restrictions relating to wastes from organobromine chemicals production.
- 63 Fed. Reg. 24963
(May 6, 1998)
- USEPA adopted a direct final rule that is effective July 6, 1998. The rule amends the used oil regulations to clarify the regulatory status of used oil mixtures containing PCB-contaminated oils.
- 63 Fed. Reg. 28555
(May 26, 1998)
- USEPA adopted "Phase IV" land disposal restrictions.
- 63 Fed. Reg. 33781
(June 19, 1998)
- USEPA partially adopted the hazardous waste combustion rules.

The Board will verify whether other federal actions occurred in the time-frame of this docket in the coming weeks, by August 1998. Upon completion of the next-preceding consolidated RCRA Subtitle C update docket, R98-21 (See item (w) above), the Board will propose corresponding amendments to the RCRA Subtitle C regulations using the identical-in-substance procedure.

Section 22.4(a) mandates that the Board complete our amendments within one year of the date on which USEPA adopted its action upon which our amendments are based. In docket R99-2, the earliest federal amendments in the time-frame of this docket that will require Board action are those of April 15, 1998, which will require Board adoption by April 15, 1999. If publication of a notice of reasons for delay is necessary, the Board will adopt an order setting forth reasons for delay and will cause a Notice of Public Information to appear in the *Illinois Register*.

- B) Statutory Authority: Implementing Section 22.4(a) and authorized by 27 of the Environmental Protection Act [415 ILCS 5/22.4(a) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. If the Board determines to propose amendments, the Board will vote to do so at an open meeting. No public hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by end of August 1998, and complete the actions in the prior consolidated update docket, R98-21, by

Section 22.4(a) of the Environmental Protection Act provides that Title VII of the Act and Section 5 of the Administrative Procedure Act [5 ILCS 100/5-35 & 5-40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by JCAR. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

x) Parts (Headings and Code Citations):

- RCRA and UIC Permit Programs (35 Ill. Adm. Code 702)
RCRA Permit Program (35 Ill. Adm. Code 703)
Procedures for Permit Issuance (35 Ill. Adm. Code 705)
Hazardous Waste Management System: General (35 Ill. Adm. Code 720)
Identification and Listing of Hazardous Waste (35 Ill. Adm. Code 721)
Standards Applicable to Generators of Hazardous Waste (35 Ill. Adm. Code 722)
Standards Applicable to Transporters of Hazardous Waste (35 Ill. Adm. Code 723)
Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 724)
Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 725)
Standards for the Management of Specific Hazardous Waste and Specific Types of Hazardous Waste Management Facilities (35 Ill. Adm. Code 726)
Land Disposal Restrictions (35 Ill. Adm. Code 728)
Standards for Universal Waste Management (35 Ill. Adm. Code 733)
Standards for the Management of Used Oil (35 Ill. Adm. Code 739)

1) Rulemaking: Docket number R99-2

- A) Description: Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] mandates that the Board update the Illinois RCRA Subtitle C regulations to reflect the USEPA amendments that occurred at this time.

The Board opened docket number R99-2 to accommodate any amendments to the RCRA Subtitle C program, 40 CFR 260 through 272, that USEPA made in the period January 1, 1998, through June 30, 1998. At this time, the Board is aware of the following federal actions that occurred in this time-frame:

- 63 Fed. Reg. 18503
(April 15, 1998)
- USEPA adopted air, water, and land environmental standards for the pulp and paper industry sector.

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

December 1998, after which time the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register* for this docket, R99-2. Section 22.4(a) of the Environmental Protection Act provides that the Board must adopt amendments based on the federal amendments involved within one year of the date of those amendments. In this instance, that date is April 15, 1998, which will require Board adoption by April 15, 1999. As a result of the delay in the prior consolidated identical-in-substance update dockets, R96-10/R97-3/R97-5, adopted by the Board on November 6, 1997; R97-21/R98-3/R98-5, proposed by the Board on May 21, 1998; and R98-21, on which work is just now commencing, progress in this docket will ultimately be unavoidably delayed. The Board cannot propose amendments in this docket until the amendments in the prior dockets are filed with the Secretary of State, at the earliest. The Board anticipates entering an order some time prior to the 1999 due date, setting forth reasons for the delay and projecting a time for completion of this rulemaking. The Board will cause a Notice of Public Information to appear in the *Illinois Register* setting forth reasons for delay.

E) Affect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect small businesses, small municipalities, and not-for-profit corporations in Illinois to the extent the affected entities engage in the generation, transportation, treatment, storage, or disposal of hazardous waste.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R99-2, as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting docket number R99-2, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312-814-6924
Internet: mmccambr@pcb084r1.state.il.us

G) Related Rulemakings and other pertinent information: The presently-pending consolidated identical-in-substance RCRA

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

Subtitle C and UIC update docket R97-21/R98-3/R98-5, reserved consolidated identical-in-substance RCRA Subtitle C and UIC update rulemaking docket R98-21 (see item (w) above), and other, as yet unknown, unrelated Board proceedings may affect the text of Parts 702, 703, 705, 720 through 726, 728, 733, and 739. The reserved identical-in-substance underground injection control update docket R99-7 (see item (v) below) and other, as yet unknown, unrelated Board proceedings could potentially impact the provisions of Parts 702, 705, 730, and 738.

Section 22.4(a) of the Environmental Protection Act provides that Title VII of the Act and Section 5 of the Administrative Procedure Act [5 ILCS 100/5-35 & 5-40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by JCAR. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

Y) Parts (Headings and Code Citations):

RCRA and UIC Permit Programs (35 Ill. Adm. Code 702)
UIC Permit Program (35 Ill. Adm. Code 704)
Procedures for Permit Issuance (35 Ill. Adm. Code 705)
Hazardous Waste Management System: General (35 Ill. Adm. Code 720)
Underground Injection Control Operating Requirements (35 Ill. Adm. Code 730)
Hazardous Waste Injection Restrictions (35 Ill. Adm. Code 738)

1) Rulemaking: Presently reserved docket number R99-7

A) Description: Section 13(c) of the Environmental Protection Act [415 ILCS 5/13(c)] mandates that the Board update the Illinois UIC regulations to reflect amendments to the USEPA UIC rules during the period January 1, 1998, through June 30, 1998. At this time, the Board has determined that two federal actions have occurred that will likely require amendment of the Illinois UIC regulations:

* 63 Fed. Reg. 24595 (May 4, 1998)	USEPA adopted waste listings and land disposal restrictions relating to wastes from organobromine chemicals production.
* 63 Fed. Reg. 28555 (May 26, 1998)	USEPA adopted "Phase IV" land disposal restrictions.

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

The Board will verify whether any other federal actions have occurred that will require amendments to the UIC regulations. The Board will do so by August 1998.

- B) Statutory Authority: Implementing Section 13(c) and authorized by 27 of the Environmental Protection Act [415 ILCS 5/13(c) & 27].

- C) Scheduled meeting/hearing dates: None scheduled at this time. When the Board determines to propose amendments, the Board will vote to do so at an open meeting. No public hearing is required in identical-in-substance proceedings.

- D) Date agency anticipates First Notice: The Board recently adopted a proposal for public comment in the consolidated update docket, R97-21/R98-3/R98-5 on May 21, 1998. Board staff is presently assembling a proposal for public comment in the next-in-sequence RCRA Subtitle C hazardous waste docket, R98-21. There is a possibility that the Board will consolidate this UIC update, R99-7 together with RCRA Subtitle C updates R98-21 and R99-2 and adoption of those consolidated amendments may be possible in Fall 1998. The UIC amendments involved in the R99-7 update docket are closely related to those involved in the RCRA Subtitle C update docket R99-2. Further consolidation of the R98-21 RCRA Subtitle C update docket with the R99-2 RCRA Subtitle C update and R99-7 UIC update dockets may allow more rapid adoption of all the amendments involved in all three proceedings.

Any work necessary on the R99-7 update docket would follow adoption of the R97-21/R98-3/R98-5 amendments. Section 13(c) of the Environmental Protection Act provides that the Board must adopt amendments based on the federal amendments involved within one year of the date of those amendments. In this instance, if that date is assumed to be May 4, 1998, the deadline for final adoption of any amendments would be May 4, 1999. As a result of the delay in the prior consolidated identical-in-substance update dockets, R96-10/R97-3/R97-5, completed by the Board in December 1997, and R97-21/R98-3/R98-5, proposed on May 21, 1998, progress in this docket may ultimately be unavoidably delayed. The Board cannot propose amendments in this docket until the amendments in the prior docket are filed with the Secretary of State, at the earliest. The Board anticipates entering an order some time prior to the May 4, 1999 due date, setting forth reasons for the delay and projecting a time for completion of this rulemaking. The Board will cause a Notice of Public Information to appear in the *Illinois Register* setting forth reasons for delay.

- E) Affect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect small businesses, small

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

municipalities, and not-for-profit corporations in Illinois to the extent the affected entities engage in the generation, transportation, treatment, storage, or disposal of hazardous waste or underground injection of waste.

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R99-7, as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting docket number R99-7, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312-814-6924
Internet: mmccambr@pcb084r1.state.il.us

- G) Related Rulemakings and other pertinent information: The pending identical-in-substance RCRA Subtitle C and UIC update rulemaking docket R97-21/R98-3/R98-5 (consolidated), reserved RCRA Subtitle C dockets R98-21 and R99-2 (see items (w) and (x) above) and other, as yet unknown, unrelated Board proceedings may affect the text of Parts 702, 705, 730, and 738.

Section 13(c) of the Environmental Protection Act provide that Title VII of the Act and Section 5 of the Administrative Procedure Act [5 ILCS 100/5-35 & 5-40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by JCAR. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

- Z) Part Heading and Code Citation:

RCRA Permit Program (35 Ill. Adm. Code 703)
Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 724)
Standards for New Solid Waste Landfills (35 Ill. Adm. Code 811)
Procedural Requirements for Permitted Landfills (35 Ill. Adm. Code 813)

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

- 1) Rulemaking: No docket presently reserved.

A) Description: Section 22.19a of the Environmental Protection Act (Act) [415 ILCS 5/22.19a], added by P.A. 90-503, enacted on August 19, 1997, and effective January 1, 1998, prohibits the location of a sanitary landfill or waste disposal site within the boundaries of a 100-year floodplain, except for certain existing facilities or facilities whose siting has already been approved. Companion Section 22.19b requires the IEPA to propose by June 30, 1998, standards for financial assurance mechanisms for landfills and waste disposal facilities that are located in 100-year floodplains. Section 22.19b requires the Board to adopt regulations based on the IEPA's proposal within six months of when the proposal is filed.

The IEPA is currently preparing a proposal for filing before the Board. This rulemaking would establish the standards for financial assurance mechanisms available to facilities located within the boundary of the 100-year floodplain.

- B) Statutory Authority: Implementing Section 22.19b and authorized by Section 27 of the Environmental Protection Act (Act) [415 ILCS 5/22.19b and 27].

- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will schedule hearings in two areas of the State shortly after receiving that proposal, to allow for adoption of final rules consistent with the Board's six-month statutory deadline. Section 22.19b requires the Board to employ the general rulemaking procedure of Title VII (Sections 27 and 28) of the Act to allow for Board adoption of rules based on the proposal.

- D) Date Agency anticipates First Notice: Section 22.19b of the Act requires the IEPA to file a proposal with the Board by June 30, 1998 that would prescribe standards for financial assurance mechanisms for landfills located within the boundary of a 100-year floodplain. It further requires the Board to adopt regulations based on an IEPA proposal within six months of receipt of the IEPA's proposal, using the general rulemaking procedure of Title VII (Sections 27 and 28) of the Act. This abbreviated schedule for Board adoption will likely require the Board to adopt proposed amendments for First Notice publication in the *Illinois Register* without substantive review immediately after the IEPA proposal is filed.

- E) Affect on small business, small municipalities, or not-for-profit corporations: The IEPA anticipates that small business, small municipalities, or not-for-profit corporations may be affected by

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

this rule to the extent that they own or operate a sanitary landfill within the boundaries of a 100-year floodplain.

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda as follows:

Kathleen M. Crowley, Senior Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312-814-6929
Internet: kcrowley@pcb084rl.state.il.us

- G) Related Rulemaking and other pertinent information: The presently pending consolidated identical-in-substance RCRA Subtitle C and UIC update rulemaking docket R97-21/R98-3/R98-5 and reserved RCRA Subtitle C update dockets R98-21 and R99-2 (see items (x) and (y) above) and other, as yet unknown, unrelated Board proceedings may affect the text of Parts 703 and 724. The reserved identical-in-substance RCRA Subtitle D municipal solid waste landfill update docket R99-1 (see item (cc) below), and other, as yet unknown, unrelated Board proceedings could potentially impact the provisions of Parts 811 and 813.

For further information on the IEPA's proposal, contact the IEPA as follows:

Valerie A. Puccini
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
217-782-5544

- aa) Part(s) (Headings and Code Citation): Review of Operator's Prior Experience (35 Ill. Adm. Code 706)

- 1) Rulemaking: No docket presently reserved.

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

A) Description: The IEPA is presently preparing a proposal for filing with the Board that would establish regulatory procedures for the denial of any RCRA permit or any permit for the conduct of any waste-transportation or waste-disposal operation if the prospective operator or any employee or officer of the prospective operator has a history of conduct that violates Section 39(i) of the Environmental Protection Act 415 ILCS 5/39(i).

B) Statutory Authority: Implementing and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/27].

C) Scheduled meeting/hearing dates: None scheduled at this time. Once the proposal is filed, the Board will conduct public hearings according to the requirements established by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].

D) Date agency anticipates First Notice: An IEPA submittal to the Board is expected by December 1998, after which the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.

E) Affect on small business, small municipalities, or not-for-profit corporations: The Board anticipates that small businesses, small not-for-profit corporations, and small municipalities may be affected by this rule to the extent they own or operate a facility or engage in any activity that requires an applicable permit.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda as follows:

Kathleen M. Crowley, Senior Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312-814-6929
Internet: kcrowley@pcb084r1.state.il.us

G) Related Rulemaking and other pertinent information: No other presently-known proceeding would impact the general provisions of Part 706.

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

For information regarding the IEPA's development of this proposal, please contact:

Christopher Perzan
Division of Legal Counsel
1021 North Grand Ave East
P.O. Box 19276
Springfield, Illinois 62794-9276
217-782-5544

bb) Parts (Headings and Code Citations): Proportionate Share Liability (35 Ill. Adm. Code 741)

1) Rulemaking: Docket Number R97-16

A) Description: Public Act 89-443, effective July 1, 1996, added Section 58.9 to Title XVII of the Environmental Protection Act [415 ILCS 5/58.9]. This Section repealed the concept of joint and several liability in environmental actions and replaced it with the concept of proportionate share liability. Specifically, Section 58.9 established that liability for costs of remedial action due to release of "regulated substances" (i.e., pollutants) was limited to a person's "proportionate share" of liability where two or more persons caused or contributed to a release. Section 58.9(d) required the Board to adopt "rules and procedures" for determining the proportionate share on or before December 31, 1997. This deadline was later extended to January 1, 1999 by Public Act 90-484. On December 5, 1996, the Board opened a docket to solicit public comments on this matter to assist the Board in the promulgation of rules to implement section 58.9.

On February 2, 1998, the IEPA filed a proposal with the Board to add a new Part 741 to the Board's waste disposal regulations (35 Ill. Adm. Code Subtitle G). These proposed rules would establish procedures for the implementation of the proportionate share liability scheme established by Public Act 89-443.

B) Statutory Authority: Sections 27, 28, and 58.9 of the Illinois Environmental Protection Act [415 ILCS 5/27, 28 & 58.9].

C) Scheduled meeting/hearing dates: The Board has held four hearings on the proposal. The first hearing took place in Springfield on May 4, 1998. The second hearing was held in Chicago on May 12, 1998. The third and fourth hearings were held in Springfield on May 27, 1998, and June 10, 1998. The Board also established a public comment period until July 14, 1998, to receive comments before the Board proceeds to First Notice in this rulemaking. No

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

further hearings have been planned or scheduled at this time.

- D) Date agency anticipates First Notice: The Board may cause First Notice publication of a Notice of Proposed Rules and Notice of Proposed Amendments in the Summer or Fall of 1998.

- E) Affect on small business, small municipalities, or not-for-profit corporations: These rules may affect any small business, small municipality, or not-for-profit corporation that has caused or contributed to a release requiring remedial action.

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda as follows:

Cynthia Ervin, Attorney
Pollution Control Board
600 S. Second Street, Suite 402
Springfield, Illinois 62704
217-524-8509
Internet: cervin@pcb084rl.state.il.us

- G) Related Rulemakings and other pertinent information: No other presently-known Board proceedings could potentially impact the general provisions of Part 741.

cc) Parts (Headings and Code Citations):

Solid Waste (35 Ill. Adm. Code 807)
Solid Waste Disposal: General Provisions (35 Ill. Adm. Code 810)
Standards for New Solid Waste Landfills (35 Ill. Adm. Code 811)
Information to be Submitted in a Permit Application (35 Ill. Adm. Code 812)
Procedural Requirements for Permitted Landfills (35 Ill. Adm. Code 813)
Interim Standards for Existing Landfills and Units (35 Ill. Adm. Code 814)
Procedural Requirements for All Landfills Exempt from Permits (35 Ill. Adm. Code 815)

- 1) Rulemaking: Presently reserved docket number R99-1.

- A) Description: Section 22.40(a) of the Environmental Protection Act

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

[415 ILCS 5/22.40(a)] mandates that the Board update the Illinois RCRA Subtitle D municipal solid waste landfill regulations to reflect the USEPA amendments to the federal RCRA Subtitle D rules.

The Board has reserved docket number R99-1 to accommodate any amendments to the 40 CFR 258 RCRA Subtitle D regulations that USEPA may make in the period January 1, 1998, through June 30, 1998. At this time, the Board is aware of a single federal action that will require amendments to the RCRA Subtitle D municipal solid waste landfill (MSWLF) regulations. On April 10, 1998 (63 Fed. Reg. 17706), USEPA amended its financial assurance requirements to incorporate new alternative financial mechanisms for use by privately-owned and operated landfill facilities. The Board will verify whether any other federal actions have occurred in coming weeks, by August 1998. If that verification indicates that no amendments requiring amendments are necessary, the Board will dismiss the docket. If, on the other hand, amendments are then indicated, the Board will propose corresponding amendments to the MSWLF regulations using the identical-in-substance procedure.

Section 22.40(a) mandates that the Board complete our amendments within one year of the date on which USEPA adopted its action upon which our amendments are based. In docket R99-1, if the earliest federal amendments in the applicable period is assumed to have occurred on April 10, 1998, the nominal due date would be April 10, 1999.

- B) Statutory Authority: Sections 22.40(a) and 27 of the Environmental Protection Act [415 ILCS 5/22.40(a) & 27].

- C) Scheduled meeting/hearing dates: None scheduled at this time. If the Board determines to propose amendments, the Board will vote to do so at an open meeting. No public hearing is required in identical-in-substance proceedings.

- D) Date agency anticipates First Notice: The Board expects to adopt a proposal for public comment in R99-1 some time by early 1999, after which time the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*. The Board will accept public comments on the proposal for 45 days after the date of publication. Section 22.40(a) of the Environmental Protection Act provide that the Board must adopt amendments based on the federal amendments involved within one year of the date of those amendments. In docket R99-1, the earliest possible federal amendments in the time-frame of this docket that would require Board action would be April 10, 1998, which would require Board adoption by April 10, 1999.

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

E) Affect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect small businesses, small municipalities, and not-for-profit corporations in Illinois to the extent the affected entities engage in the land disposal of municipal solid waste.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R99-1, as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting docket number R99-1, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312-814-6924
Internet: mmccamb@pcb084rl.state.il.us

G) Related Rulemakings and other pertinent information: Prospective proposals for amendments to the solid waste landfill regulations anticipated from the IEPA relating to citing landfill facilities in 100-year floodplains (see item (z) above) and other, as yet unknown, proceedings could potentially impact Parts 811 and 813. No other presently-known proceedings would affect the text of Parts 807, 810, 812, 814, or 815.

Section 22.40(a) of the Environmental Protection Act provides that Title VII of the Act and Section 5 of the Administrative Procedure Act [5 ILCS 100/5-35 & 5-40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by JCAR. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

dd) Part (Heading and Code Citation): Special Waste Classifications (35 Ill. Adm. Code 808)

1) Rulemaking: No docket presently reserved.

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

A) Description: The IEPA is currently developing a proposal for filing with the Board that would amend the special waste classification regulations, located at 35 Ill. Adm. Code 808. The amendments would provide relaxation of requirements relating to the handling of special waste for small businesses.

B) Statutory Authority: Sections 21, 22, 22.01, 22.9, and 27 of the Environmental Protection Act [415 ILCS 5/21, 22, 22.01, 22.9 & 27].

C) Scheduled meeting/hearing dates: None scheduled at this time. Once the proposal is filed, the Board will hold hearings according to the requirements established by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].

D) Date Agency anticipates First Notice: An IEPA submittal to the Board by the Summer 1998 is expected, after which the Board will cause First Notice publication of a Notice of Proposed Amendments in the *Illinois Register*.

E) Affect on small business, small municipalities, or not-for-profit corporations: The Board anticipates that small businesses, small municipalities, and not-for-profit corporations that generate, transport, or manage, special waste may be affected by these amendments. The amendments would provide relaxation of requirements relating to the handling of special waste for small businesses.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda as follows:

Kathleen M. Crowley, Senior Attorney
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601
312-814-6929
Internet: kcrowley@pcb084rl.state.il.us

G) Related Rulemakings and other pertinent information: No other presently-known proceedings would affect the text of Part 808.

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

For information regarding the IEPA's development of this proposal, please contact:

Judith S. Dyer
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217-782-5544

ee) Part(s) (Headings and Code Citation): Special Waste Hauling (35 Ill. Adm. Code 809)

1) Rulemaking: Docket Number R98-29.

A) Description: The IEPA filed a rulemaking proposal before the Board on May 8, 1998. The prospective amendments would bifurcate the existing special waste hauling regulations into two segments. A new Uniform Program required by the federal government would be incorporated to address hazardous waste, and nonhazardous special waste would appear under its own Subpart.

These amendments were necessitated by a potential federal preemption suit. Federal law mandates that any state wishing to register and issue permits to motor carriers that transport hazardous materials must do so by using uniform forms and procedures. P.A. 90-219, effective July 25, 1997, amended the Act to incorporate the Uniform Program in this State, in order to be consistent with federal law. These amendments would implement those changes.

B) Statutory Authority: The prospective amendments would be proposed pursuant to Sections 22, 22.01, and 22.2 and authorized by Section 27 of the Illinois Environmental Protection Act (Act) [415 ILCS 5/21, 5/22.01, 5/22.2 & 27], as amended by P.A. 90-219, effective July 25, 1997.

C) Scheduled Meeting/Hearing Dates: None are scheduled at this time. The Board will conduct at least two public hearings in affected areas of the State, as required by Sections 27 and 28 of the Act.

D) Date Agency Anticipates First Notice: The Board anticipates that adoption of a First Notice opinion and order will occur after the public hearings on the proposal. When the Board adopts the First Notice opinion and order in this matter, it will cause a Notice of Proposed Amendments to appear in the *Illinois Register*.

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

E) Affect on Small Business, Small Municipalities, or Not-for-profit Corporations: This rule will affect small businesses, small municipalities, and not-for-profit corporations to the extent that these entities ship or transport hazardous waste or nonhazardous special waste.

F) Agency Contact Person for Information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda as follows:

John Knittle, Attorney
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601
312-814-3473
Internet: knittlej@pcb084rl.state.il.us

G) Related Rulemaking and other pertinent information: No other presently-known proceedings would affect the text of Part 809.

For information regarding the development of the IEPA proposal, please contact the IEPA as follows:

Kimberly A. Robinson
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217-782-5544

ff) Parts (Headings and Code Citations): Requirements for New Steel and Foundry Industry Wastes Landfills (35 Ill. Adm. Code 817)

1) Rulemaking: Docket Number R97-27

A) Description: On March 4, 1997, the Illinois Cast Metals Association (ICMA) filed a proposal with the Board to amend 35 Ill. Adm. Code 817.101. Section 817.101 addresses the scope and applicability of Part 817, Requirements for New Steel and Foundry Industry Wastes Landfills. Generally, certain steel and foundry operations may opt to comply with the Part 817 requirements in lieu of disposing of their wastes as chemical waste in Part 811

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

landfills. Part 817 contains requirements for management and disposal of certain steel and foundry wastes that meet the waste classification criteria (maximum allowable leaching concentrations (MALCs)). ICMA proposes to expand the scope of Part 817 to allow certain nonferrous foundries the option of availing themselves of Part 817. Specifically, ICMA proposes to include the following among those wastes that may come within Part 817: non-putrescible wastes produced by nonferrous foundry processes covered by SIC Codes 3365 and 3366, with the exception of those foundries that pour leaded brass.

B) Statutory Authority: Sections 21, 22, 27 and 28 of the Illinois Environmental Protection Act [415 ILCS 5/21, 22, 27 & 28].

C) Scheduled meeting/hearing dates: The first hearing in this matter was held in Chicago, Illinois on June 2, 1997. The second hearing, originally scheduled to take place in Springfield, Illinois, was twice postponed at the request of ICMA. The second hearing was postponed an additional time at the joint request of ICMA and the IEPA. The second hearing has not yet been rescheduled. The Board will conduct any such hearing in accordance with the requirements of Sections 27 and 28 of the Illinois Environmental Protection Act [415 ILCS 5/27 & 28].

D) Date agency anticipates First Notice: As described above, the second hearing in this matter has been postponed several times and has not yet been rescheduled. Depending in part upon if and when the second hearing in this matter takes place, the Board may cause First Notice publication of a Notice of Proposed Amendments in 1998.

E) Affect on small business, small municipalities, or not-for-profit corporations: The amendments may affect any small business, small municipality, or not-for-profit corporation that owns or operates certain nonferrous foundries or certain steel and foundry industry waste landfills.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R97-27, as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting docket number R97-27, as follows:

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

Richard R. McGill, Jr., Attorney
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601
312-814-6983
Internet: rmcgill@pcb084rl.state.il.us

G) Related Rulemakings and other pertinent information: No other presently-known proceedings would affect the text of Part 817.

gg) Parts (Headings and Code Citations): Standards for Compost Facilities (35 Ill. Adm. Code 830)

1) Rulemaking: Docket Number R97-29

A) Description: On May 6, 1997, two citizens (proponents) filed a proposal with the Illinois Pollution Control Board (Board) to amend 35 Ill. Adm. Code 830.203(c) (proposal). Section 830.203(c) contains location standards for certain landscape waste composting areas. Generally, proponents request in their proposal that the Board amend Section 830.203(c) to prohibit composting areas from being located within one-half mile of the property line of a hospital, school, athletic field, or public park, and to require that existing composting areas located within that setback distance be relocated. Proponents allege that the amendments are necessary because of actual and potential health threats from exposure to certain composting operations.

B) Statutory Authority: Sections 21, 27, 28 and 39 of the Illinois Environmental Protection Act [415 ILCS 5/21, 27, 28 & 39].

C) Scheduled meeting/hearing dates: The Board conducted two public hearings in affected areas of the State on September 8 and October 7, 1997, as required by Sections 27 and 28 of the Illinois Environmental Protection Act [415 ILCS 5/27 & 28]. If further public hearings are held, the Board will conduct them also in accordance with the requirements of Sections 27 and 28.

D) Date agency anticipates First Notice: The Board may cause First Notice publication of a Notice of Proposed Amendments to appear in the *Illinois Register* some time in 1998.

E) Affect on small business, small municipalities, or not-for-profit corporations: The amendments may affect any small business, small municipality, or not-for-profit corporation that owns or operates certain composting areas or that wishes to locate certain composting areas.

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R97-29, as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting docket number R97-29, as follows:

Richard R. McGill, Jr., Attorney
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601
312-814-6983
Internet: rmcgill@pcb084rl.state.il.us

- G) Related Rulemakings and other pertinent information: A prospective proposal for rulemaking anticipated later this year from the IEPA (see item (hh) below) and other, as yet unknown proceedings could potentially impact Part 830.

- hh) Part(s) (Headings and Code Citation): Standards for Compost Facilities (35 Ill. Adm. Code 830)

- 1) Rulemaking: No docket presently reserved.

- A) Description: The IEPA is presently developing a proposal for filing with the Board that would amend the existing regulations addressing compost facilities, located at 35 Ill. Adm. Code 830. The existing regulations establish performance standards for landscape waste compost facilities and performance and testing standards for end-product compost produced by such facilities. The prospective amendments under development by IEPA would provide performance standards governing facilities composting organic and mixed municipal waste.

- B) Statutory Authority: Sections 22.34 and 22.35 and authorized by Section 27 of the Environmental Protection Act (Act) [415 ILCS 5/22.34, 22.35 & 27].

- C) Scheduled meeting/hearing dates: None are scheduled at this time. Once the IEPA files the proposal with the Board, the Board will conduct at least two public hearings in affected areas of the State as required by Sections 27 and 28 of the Act [415 ILCS 5/27

POLLUTION CONTROL BOARD

JULY 1998 REGULATORY AGENDA

& 28].

- D) Date agency anticipates First Notice: The IEPA anticipates submitting its proposal to the Board in 1998, after which the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.

- E) Affect on small business, small municipalities, or not-for-profit corporations: Small businesses, not-for-profit corporations, and small municipalities may be affected by these amendments to the extent they own or operate a facility that composites organic and mixed municipal waste.

- F) Agency contact person for information:

Kathleen M. Crowley, Senior Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312-814-6929
Internet: kcrowley@pcb084rl.state.il.us

- G) Related Rulemaking and other pertinent information: Presently pending rulemaking R97-29 (see item (gg) above) and other, as yet unknown, proceedings could also affect the text of Part 830.

For information regarding the IEPA's development of this proposal, please contact:

Judith S. Dyer
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217-782-5544

DEPARTMENT OF REVENUE

JULY, 1998 REGULATORY AGENDA

a) Part: Income Tax, 86 Ill. Adm. Code 1001) Rulemaking:

A) Description: New rules will be added to Part 100 concerning the foreign tax credit against the income tax (IITA Section 601(b)(3), the tax credit for Tech Prep Youth Vocational Programs (IITA Section 209), the Dependent Care Assistance Credit (IITA Section 210), the election allowed for partnerships to pass investment credits through to their partners, credit carryovers and the signature requirements for tax return purposes).

Part 100 will be amended by the addition of rules defining "financial organization" within the meaning of 35 ILCS 5/1501(a)(8) as amended by P.A. 89-711.

Part 100 will be amended by adding rules and amending existing rules governing the apportionment of business income under 35 ILCS 5/304.

Subpart P of Part 100 will be amended to update the Department's rules concerning the filing of combined returns under Section 502(e) of the Illinois Income Tax Act. Part 100 will be amended to provide guidance for determining whether a nonresident has sufficient nexus to be subject to income taxation in Illinois.

Some rules changes will be made to Part 100, as a result of recent legislation. As a result of the adoption of P.A. 88-669, rules with respect to acceptance of substitute W-2s will be proposed. The Department will also amend Part 100 as the result of Federal Public Law 104-95 (prohibiting taxation of nonresidential retirement income). Pursuant to federal P.L. 104-95, Part 100 will be revised to clarify that nonresident retirement income is exempt.

Finally, the Department will continue the updating of Part 100.

B) Statutory Authority: 35 ILCS 5/101 and 35 ILCS 5/1401

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: As noted above, there will be a number of rulemakings proposed with respect to Part 100 over the next six months. We anticipate filing

DEPARTMENT OF REVENUE

JULY, 1998 REGULATORY AGENDA

rulemakings amending Part 100 on a regular basis during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: These rulemakings will affect any business that incurs an income tax filing obligation.

F) Agency contact person for information:

Paul S. Caselton
Associate Chief Counsel - Income Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: (217) 782-7055

G) Related rulemakings and other pertinent information: None

b) Part: Property Tax Code, 86 Ill. Adm. Code 110

1) Rulemaking:

A) Description: Adopt new rulemaking on the valuation, assessment and taxation of leasehold estates. Amend existing rulemaking in Section 110.155 to reflect the new education requirements for Board of Review members in commission counties under P.A. 90-552.

B) Statutory Authority: 35 ILCS 200/9-195, 15-55; 35 ILCS 200/6-30 through 6-32

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing both rulemakings during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: The rulemaking regarding valuation, assessment and taxation of leasehold estates will affect any person or business entity leasing tax exempt real property. The rulemaking amending Section 110.155 will not have any effect on small business, small municipalities or not-for-profit corporations.

F) Agency contact person for information:

DEPARTMENT OF REVENUE

JULY, 1998 REGULATORY AGENDA

Jerry Lanter
Property Tax Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: (217) 782-6996

G) Related rulemakings and other pertinent information: None

c) Part: Real Estate Transfer Tax, 86 Ill. Adm. Code 120

1. Rulemaking:

A) Description: Repeal the Real Estate Transfer Tax regulations in Part 120 of the Illinois Administrative Code. Adopt new Real Estate Transfer regulations in Part 110 of the Illinois Administrative Code which list correct form numbers, clarify departmental policy, and answer common audit problems. This is necessary because the Real Estate Transfer Tax Act, as a separate Act, was repealed and incorporated as the Real Estate Transfer Tax Law in the Property Tax Code.

B) Statutory Authority: 35 ILCS 200/31-1 through 31-70

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing this rulemaking during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: This rulemaking will affect any person or business entity transferring title to real estate unless specifically exempted under Section 31-45 of the Property Tax Code.

F) Agency contact person for information:

Jerry Lanter
Property Tax Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-6996

G) Related rulemakings and other pertinent information: None

DEPARTMENT OF REVENUE

JULY, 1998 REGULATORY AGENDA

d) Part: Retailers' Occupation Tax, 86 Ill. Adm. Code 130

1) Rulemaking:

A) Description: Amendments will be made to update the Retailers' Occupation Tax regulations to reflect new statutory developments and decisional law. The Department will also continue the updating of Part 130.

B) Statutory Authority: 35 ILCS 120

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: As noted above, there will be a number of rulemakings proposed with respect to Part 130 over the next six months. We anticipate filing rulemakings amending Part 130 on a regular basis during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: Small businesses that sell tangible personal property at retail will be affected by these regulations.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: (217) 782-7054

G) Related rulemakings and other pertinent information: None

e) Part: Service Occupation Tax, 86 Ill. Adm. Code 140

1) Rulemaking:

A) Description: These rules are part of a general update of the Service Occupation Tax regulations to reflect new statutory developments and decisional law.

The Department will also continue the updating of Part 140.

B) Statutory Authority: 35 ILCS 115

DEPARTMENT OF REVENUE

JULY, 1998 REGULATORY AGENDA

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: As noted above, there will be a number of rulemakings proposed with respect to Part 140 over the next six months. We anticipate filing rulemakings amending Part 140 on a regular basis during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: Servicemen transferring tangible personal property incident to service will be affected by these rules.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: (217) 782-7054

G) Related rulemakings and other pertinent information: None

f) Part: Use Tax, 86 Ill. Adm. Code 150

1) Rulemaking:

A) Description: Amendments will be made to update the Use Tax regulations to reflect new statutory developments and decisional law.

B) Statutory Authority: 35 ILCS 105

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 150 during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Use Tax.

F) Agency contact person for information:

DEPARTMENT OF REVENUE

JULY, 1998 REGULATORY AGENDA

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: (217) 782-7054

G) Related rulemakings and other pertinent information: None

g) Part: Service Use Tax, 86 Ill. Adm. Code 160

1) Rulemaking:

A) Description: Amendments will be made to update the Service Use Tax regulations to reflect new statutory developments and decisional law.

B) Statutory Authority: 35 ILCS 110

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 160 during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Service Use Tax.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: (217) 782-7054

G) Related rulemakings and other pertinent information: None

h) Part: Taxpayer Rights, 86 Ill. Adm. Code 205

1) Rulemaking:

A) Description: The rules under the Taxpayer's Bill of Rights will be updated.

DEPARTMENT OF REVENUE

JULY, 1998 REGULATORY AGENDA

- B) Statutory Authority: 20 ILCS 2520
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: As noted above, there will be a number of rulemakings proposed with respect to Part 205 over the next six months. We anticipate filing rulemakings amending Part 205 on a regular basis during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: These rulemakings will affect any business that incurs an income tax filing obligation.

F) Agency contact person for information:

Paul S. Caselton
Associate Chief Counsel - Income Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: (217) 782-7055

G) Related rulemakings and other pertinent information: None

i) Part: Alcoholic Liquor Act, 86 Ill. Adm. Code 420

1) Rulemaking:

A) Description: Amendments will be made to update the Alcoholic Liquor Act regulations to reflect new statutory developments and decisional law.

B) Statutory Authority: 235 ILCS 5

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 420 during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Liquor Control Act of 1934.

F) Agency contact person for information:

DEPARTMENT OF REVENUE

JULY, 1998 REGULATORY AGENDA

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: (217) 782-6996

C) Related rulemakings and other pertinent information: None

j) Part: Bingo License and Tax Act, 86 Ill. Adm. Code 430

1) Rulemaking:

A) Description: Amendments will be made to update the Bingo License and Tax Act regulations to reflect new statutory developments and decisional law.

B) Statutory Authority: 35 ILCS 25

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 430 during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Bingo License and Tax Act.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: (217) 782-7054

G) Related rulemakings and other pertinent information: None

k) Part: Pull Tabs and Jar Games Act, 86 Ill. Adm. Code 432

1) Rulemaking:

A) Description: Amendments will be made to update the Pull Tabs and Jar Games Act regulations to reflect new statutory developments and decisional law.

DEPARTMENT OF REVENUE

JULY, 1998 REGULATORY AGENDA

- B) Statutory Authority: 230 ILCS 20
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 432 during the next six months of this year.
- E) Affect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Pull Tabs and Jar Games Act.
- F) Agency contact person for information:
- George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: (217) 782-7054

G) Related rulemakings and other pertinent information: None

- 1) Part: Charitable Games Act, 86 Ill. Adm. Code 435

1) Rulemaking:

- A) Description: Amendments will be made to update the Charitable Games Act regulations to reflect new statutory developments and decisional law.

B) Statutory Authority: 230 ILCS 30

- C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 435 during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Charitable Games Act.

F) Agency contact person for information:

DEPARTMENT OF REVENUE

JULY, 1998 REGULATORY AGENDA

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: (217) 782-7054

G) Related rulemakings and other pertinent information: None

- m) Part: Cigarette Tax Act, 86 Ill. Adm. Code 440

1) Rulemaking:

- A) Description: Amendments will be made to update the Cigarette Tax Act regulations to reflect new statutory developments and decisional law.

B) Statutory Authority: 35 ILCS 130

- C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 440 during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Cigarette Tax Act.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: (217) 782-6996

G) Related rulemakings and other pertinent information: None

- n) Part: Cigarette Use Tax Act, 86 Ill. Adm. Code 450

1) Rulemaking:

- A) Description: Amendments will be made to update the Cigarette Use Tax Act regulations to reflect new statutory developments and decisional law.

DEPARTMENT OF REVENUE

JULY, 1998 REGULATORY AGENDA

- B) Statutory Authority: 35 ILCS 135
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 450 during the next six months of this year.
- E) Affect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Cigarette Use Tax Act.
- F) Agency contact person for information:
 George Sorensen
 Associate Chief Counsel
 Illinois Department of Revenue
 101 W. Jefferson, 5-500
 Springfield, IL 62794
 Telephone: (217) 782-6996
- G) Related rulemakings and other pertinent information: None
- O) Part: Coin-Operated Amusement Device Tax, 86 Ill. Adm. Code 460
- 1) Rulemaking:
- A) Description: Amendments will be made to update the Coin-Operated Amusement Device and Redemption Machine Tax Act regulations to reflect new statutory developments and decisional law.
- B) Statutory Authority: 35 ILCS 510
- C) Scheduled meetings/hearings dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 460 during the next six months of this year.
- E) Affect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Coin-Operated Amusement Device and Redemption Machine Tax Act.
- F) Agency contact person for information:

DEPARTMENT OF REVENUE

JULY, 1998 REGULATORY AGENDA

- George Sorensen
 Associate Chief Counsel
 Illinois Department of Revenue
 101 W. Jefferson, 5-500
 Springfield, IL 62794
 Telephone: (217) 782-7054
- G) Related rulemakings and other pertinent information: None
- P) Part: Gas Revenue Tax, 86 Ill. Adm. Code 470
- 1) Rulemaking:
- A) Description: Amendments will be made to update the Gas Revenue Tax regulations to reflect new statutory developments and decisional law.
- B) Statutory Authority: 35 ILCS 615
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 470 during the next six months of this year.
- E) Affect small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Gas Revenue Tax.
- F) Agency contact person for information:
 George Sorensen
 Associate Chief Counsel
 Illinois Department of Revenue
 101 W. Jefferson, 5-500
 Springfield, IL 62794
 Telephone: (217) 782-7054
- G) Related rulemakings and other pertinent information: None
- Q) Part: Hotel Operators' Occupation Tax, 86 Ill. Adm. Code 480
- 1) Rulemaking:
- A) Description: Amendments will be made to update the Hotel Operators' Occupation Tax regulations to reflect new statutory developments and decisional law.

DEPARTMENT OF REVENUE

JULY, 1998 REGULATORY AGENDA

- B) Statutory Authority: 35 ILCS 145
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 480 during the next six months of this year.
- E) Affect small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Hotel Operators' Occupation Tax.
- F) Agency contact person for information:
 George Sorensen
 Associate Chief Counsel
 Illinois Department of Revenue
 101 W. Jefferson, 5-500
 Springfield, IL 62794
 Telephone: (217) 782-7054
- G) Related rulemakings and other pertinent information: None
- r) Part: Telecommunications Excise Tax, 86 Ill. Adm. Code 495
- 1) Rulemaking:
- A) Description: The rules will be amended to clarify both current statutory provisions and Department policy. Many new technologies have evolved since the Act was established, and the manner in which these technologies are taxed can be clarified in the rules.
- B) Statutory Authority: 35 ILCS 630
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 495 during the next six months of this year.
- E) Affect on small business, small municipalities or not for profit corporations: Retailers of telecommunications will be affected by these regulations.
- F) Agency contact person for information:
 George Sorensen
 Associate Chief Counsel
 Illinois Department of Revenue
 101 W. Jefferson, 5-500
 Springfield, IL 62794
 Telephone: (217) 782-6996
- G) Related rulemakings and other pertinent information: None
- t) Part: Public Utilities Revenue Act, 86 Ill. Adm. Code 510
- 1) Rulemaking:

DEPARTMENT OF REVENUE

JULY, 1998 REGULATORY AGENDA

- George Sorensen
 Associate Chief Counsel
 Illinois Department of Revenue
 101 W. Jefferson, 5-500
 Springfield, IL 62794
 Telephone: (217) 782-7054
- G) Related rulemakings and other pertinent information: None
- s) Part: Motor Fuel Tax, 86 Ill. Adm. Code 500
- 1) Rulemaking:
- A) Description: Amendments will be made to update the Motor Fuel Tax regulations to reflect new statutory developments and decisional law.
- B) Statutory Authority: 35 ILCS 505
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: As noted above there will be a number of rulemakings proposed with respect to Part 500 over the next six months. We anticipate filing rulemakings amending Part 500 on a regular basis during the second six months of this year.
- E) Affect on small business, small municipalities or not for profit corporations: Distributors, suppliers and receivers of motor fuel, as well as persons paying Motor Fuel Use Tax under the International Fuel Tax Agreement.
- F) Agency contact person for information:
 George Sorensen
 Associate Chief Counsel
 Illinois Department of Revenue
 101 W. Jefferson, 5-500
 Springfield, IL 62794
 Telephone: (217) 782-6996
- G) Related rulemakings and other pertinent information: None
- t) Part: Public Utilities Revenue Act, 86 Ill. Adm. Code 510
- 1) Rulemaking:

DEPARTMENT OF REVENUE

JULY, 1998 REGULATORY AGENDA

A) Description: Amendments will be made to update the Public Utilities Revenue Act regulations to reflect new statutory developments and decisional law.

B) Statutory Authority: 35 ILCS 620

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: As noted above there will be a number of rulemakings proposed with respect to Part 510 over the next six months. We anticipate filing rulemakings amending Part 510 on a regular basis during the second six months of this year.

E) Affect on small business, small municipalities or not for Profit corporations: These amendments will affect persons subject to the Public Utilities Revenue Act.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: (217) 782-6996

G) Related rulemakings and other pertinent information: None

u) Part: Tobacco Products Tax Act of 1995, 86 Adm. Code 660

1) Rulemaking:

A) Description: Amendments will be made to update the Tobacco Products Tax Act of 1995 regulations to reflect new statutory developments and decisional law.

B) Statutory Authority: 35 ILCS 143

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 660 during the next six months of this year.

E) Affect on small business, small municipalities or not for

DEPARTMENT OF REVENUE

JULY, 1998 REGULATORY AGENDA

Profit corporations: This rulemaking will affect persons subject to the Tobacco Products Tax Act of 1995.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: (217) 782-6996

G) Related rulemakings and other pertinent information: None

v) Part: Special County Retailers' Occupation Tax For Public Safety, 86 Ill. Adm. Code 670

1) Rulemaking:

A) Description: Amendments will be made to update the Special County Retailers' Occupation Tax For Public Safety regulations to reflect new statutory developments and decisional law.

B) Statutory Authority: 55 ILCS 5

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 670 during the next six months of this year.

E) Affect on small business, small municipalities or not for Profit corporations: These amendments will affect persons subject to the Special County Retailers' Occupation Tax For Public Safety.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: (217) 782-6996

G) Related rulemakings and other pertinent information: None

DEPARTMENT OF REVENUE

JULY, 1998 REGULATORY AGENDA

- w) Part: Special County Service Occupation Tax For Public Safety, 86 Ill. Adm. Code 680

1) Rulemaking:

- A) Description: Amendments will be made to update the Special County Service Occupation Tax For Public Safety regulations to reflect new statutory developments and decisional law.

- B) Statutory Authority: 55 ILCS 5

- C) Scheduled meetings/hearing dates: No schedule has been established at this time.

- D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 680 during the next six months of this year.

- E) Affect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Special County Service Occupation Tax For Public Safety.

- F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: (217) 782-6996

- G) Related rulemakings and other pertinent information: None

- x) Part: Uniform Penalty and Interest Act, 86 Ill. Adm. Code 700

1) Rulemaking:

- A) Description: Amendments will be made to update the Uniform Penalty and Interest Act regulations to reflect new statutory developments and decisional law.

- B) Statutory Authority: 35 ILCS 735

- C) Scheduled meetings/hearing dates: No schedule has been established at this time.

- D) Date agency anticipates First Notice: We anticipate filing

DEPARTMENT OF REVENUE

JULY, 1998 REGULATORY AGENDA

- rulemakings amending Part 700 during the next six months of this year.

- E) Affect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Uniform Penalty and Interest Act.

- F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: (217) 782-6996

- G) Related rulemakings and other pertinent information: None

- y) Part: Payment of Taxes by Electronic Funds Transfer, 86 Ill. Adm. Code 750

1) Rulemaking:

- A) Description: Amendments will be made to update the Payment of Taxes by Electronic Funds Transfer regulations.

- B) Statutory Authority: 35 ILCS 120

- C) Scheduled meetings/hearing dates: No schedule has been established at this time.

- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

- E) Affect on small business, small municipalities or not for profit corporations: This rulemaking will affect taxpayers making payment of taxes by electronic funds transfer.

- F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: (217) 782-6996

- G) Related rulemakings and other pertinent information: None

DEPARTMENT OF REVENUE

JULY, 1998 REGULATORY AGENDA

z) Part: 86 Ill. Adm. Code 760, Electronic Filing of Returns or Other Documents

1) Rulemaking:

A) Description: Amendments will be made to update the Electronic Filing of Returns or Other Documents regulations.

B) Statutory Authority:

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: This rulemaking will affect taxpayers making payment of taxes by electronic funds transfer.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: (217) 782-6996

G) Related rulemakings and other pertinent information: None

aa) Part: General Rules for All Taxes, 86 Ill. Adm. Code 800

1) Rulemaking:

A) Description: New rulemaking to reflect new statutory developments.

B) Statutory Authority: 20 ILCS 2505/39c-1a

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: This rulemaking will affect taxpayers

DEPARTMENT OF REVENUE

JULY, 1998 REGULATORY AGENDA

filing tax returns electronically.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: (217) 782-6996

G) Related rulemakings and other pertinent information: None

bb) Part: Electricity Excise Tax (new)

1) Rulemaking:

A) Description: New rulemaking to reflect new statutory developments.

B) Statutory Authority:

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: This rulemaking will affect electric utilities.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: (217) 782-6996

G) Related rulemakings and other pertinent information: None

cc) Part: Telecommunications Municipal Infrastructure Maintenance Fee (new)

1) Rulemaking:

DEPARTMENT OF REVENUE

JULY, 1998 REGULATORY AGENDA

- A) Description: New rulemaking to reflect new statutory developments.
- B) Statutory Authority: P.A. 90-154
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Affect on small business, small municipalities or not for profit corporations: This rulemaking will affect telecommunications retailers.
- F) Agency contact person for information:
 George Sorensen
 Associate Chief Counsel
 Illinois Department of Revenue
 101 W. Jefferson, 5-500
 Springfield, IL 62794
 Telephone: (217) 782-6996
- G) Related rulemakings and other pertinent information: None

SECRETARY OF STATE

JULY 1998 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Illinois Securities Law of 1953, 14 Ill. Adm. Code 130
- 1) Rulemaking:
- A) Description: A rule will be drafted to implement a technical amendment to Section 8.b of the statute regarding telephone solicitation by securities firms. Amend ULOE rule to specify annual filing requirements.
- B) Statutory Authority: Illinois Securities Law of 1953, Section 11.A
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: Unknown
- E) Affect on small businesses, small municipalities or not for profit corporations: Unknown
- F) Agency contact person for information:
 Theresa Oxtoby
 520 South Second Street, Suite 200
 Springfield, IL 62701
 217/524-8040
- G) Related rulemakings and other pertinent information: None
- b) Part(s) (Heading and Code Citation): Illinois Business Brokers Act of 1995, 14 Ill. Adm. Code 140
- 1) Rulemaking:
- A) Description: Draft rule to create filing procedures for a business broker lien. Draft rule to set forth fees for filing a business broker lien. Draft rule to create procedures for terminating a previously filed business broker lien.
- B) Statutory Authority: Illinois Business Brokers Act of 1995, Section 815 ILCS 307/10-45.
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: Unknown
- E) Affect on small businesses, small municipalities or not for profit

SECRETARY OF STATE

JULY 1998 REGULATORY AGENDA

corporations: UnknownF) Agency contact person for information:

Theresa Oxtoby
520 South Second Street, Suite 200
Springfield, IL 62701
217/524-8040

G) Related rulemakings and other pertinent information: Nonec) Part(s) (Heading and Code Citation): Illinois State Library, Information Services Division, 23 Ill. Adm. Code 30101) Rulemaking:

A) Description: Revision of the rules to reflect needed updates regarding photocopying, circulation of materials, reserves of materials, replacement of lost and/or damaged materials, reference service, and interlibrary loan.

B) Statutory Authority: Implementing and authorized by the State Library Act [15 ILCS 320]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: July 1998

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Kathleen L. Bloomberg
Illinois State Library
South Second Street
Springfield, IL 62701-1796
fax 217/782-8261
kbloom@library.sos.state.il.us

G) Related rulemakings and other pertinent information: None

d) Part(s) (Heading and Code Citation): The Illinois Library System Act, 23 Ill. Adm. Code 30301) Rulemaking:

SECRETARY OF STATE

JULY 1998 REGULATORY AGENDA

A) Description: To amend the rules to clarify requirements for expenditure of library system funds during the fiscal year and clarify library system membership requirements.

B) Statutory Authority: Implementing and authorized by the Illinois Library System Act [75 ILCS 10/11].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: September 1998

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Kathleen L. Bloomberg
Illinois State Library
South Second Street
Springfield, IL 62701-1796
fax 217/782-8261
kbloom@library.sos.state.il.us

G) Related rulemakings and other pertinent information: None

e) Part(s) (Heading and Code Citation): Literacy Grant Program, 23 Ill. Adm. Code 30401) Rulemaking:

A) Description: Revise Subpart A which covers criteria and reporting requirements for grants under the Literacy Provider Program and address recent changes in legislation regarding workplace literacy.

B) Statutory Authority: Implementing and authorized by the State Library Act [15 ILCS 320] and the Illinois Literacy Act [15 ILCS 322].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: July 1998

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

SECRETARY OF STATE

JULY 1998 REGULATORY AGENDA

Kathleen L. Bloomberg
Illinois State Library
South Second Street
Springfield, IL 62701-1796
fax 217/782-8261
kbloomblibrary.sos.state.il.us

G) Related rulemakings and other pertinent information: None

f) Part(s) (Heading and Code Citation): Public Library Construction Grants, 23 Ill. Adm. Code 3060

1) Rulemaking:

A) Description: Revision of the rules to reflect changes concerning grant priorities, grant eligibility and specific criteria relating to mini-grants.

B) Statutory Authority: Implementing and authorized by the State Library Act [75 ILCS 10/3 and 8]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: October 1998

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Kathleen L. Bloomberg
Illinois State Library
South Second Street
Springfield, IL 62701-1796
fax 217/782-8261
kbloomblibrary.sos.state.il.us

G) Related rulemakings and other pertinent information: None

g) Part(s) (Heading and Code Citation): Illinois State Library Training Grant Program, 23 Ill. Adm. Code 3070

1) Rulemaking:

A) Description: The rules will be revised to update the conditions for training program grants relating to the library employment

SECRETARY OF STATE

JULY 1998 REGULATORY AGENDA

requirements and the names of accredited graduate library schools in Illinois.

B) Statutory Authority: Implementing and authorized by the State Library Act [15 ILCS 320]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: July 1998

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Kathleen L. Bloomberg
Illinois State Library
South Second Street
Springfield, IL 62701-1796
fax 217/782-8261
kbloomblibrary.sos.state.il.us

G) Related rulemakings and other pertinent information: None

h) Part(s) (Heading and Code Citation): Procedures and Standards, 92 Ill. Adm. Code 1001

1) Rulemaking:

A) Description: The amendment would modify the Breath Alcohol Ignition Interlock Device (BAIID) provisions to reflect the statutory changes contained in Senate Bill 1695 which it is anticipated the Governor will sign into law. The amendment would modify the Motor Vehicle Franchise Act provisions found in Subpart G to reflect changes and clarification of hearing procedures.

B) Statutory Authority: Implementing and authorized by the Illinois Vehicle Code (625 ILCS 5/2-104 and 11-501) and the Illinois Motor Vehicle Franchise Act (815 ILCS 710).

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: Last quarter CY98

E) Affect on small businesses, small municipalities or not for profit corporations: None

SECRETARY OF STATE

JULY 1998 REGULATORY AGENDA

F) Agency contact person for information:

Jay L. Mesi, Senior Legal Advisor
Room 200
Howlett Building
Springfield, IL 62756
217/785-8237

G) Related rulemakings and other pertinent information: Nonei) Part(s) (Heading and Code Citation): Certificates of Title, Registration of Vehicles, 92 Ill. Adm. Code 10101) Rulemaking:

A) Description: Amend existing rules or create new rules to accommodate technical or procedural changes in anticipation of or because of new legislation.

B) Statutory Authority: Implementing and authorized by the Illinois Vehicle Code [625 ILCS 5/2-104 (b)].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: Unknown

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Carol Sudman
Assistant Counsel
Secretary of State's Office
298 Howlett
Springfield, Illinois 62756

G) Related rulemaking and other pertinent information: Nonej) Part(s) (Heading and Code Citation): Dealers, Wreckers, Transporters and Rebuilders, 92 Ill. Adm. Code 10201) Rulemaking:

A) Description: Amend existing rules or create new rules to accommodate technical or procedural changes in anticipation of or

SECRETARY OF STATE

JULY 1998 REGULATORY AGENDA

because of new legislation.

B) Statutory Authority: Implementing and authorized by the Illinois Vehicle Code [625 ILCS 5/2-104 (b)].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: Unknown

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Carol Sudman
Assistant Counsel
Secretary of State's Office
298 Howlett
Springfield, Illinois 62756

G) Related rulemaking and other pertinent information: None

k) Part(s) (Heading and Code Citation): Issuance of Licenses, 92 Ill. Adm. Code 10301) Rulemaking:

A) Description: To implement any legislative changes enacted by the General Assembly and passed into law.

B) Statutory Authority: Implementing the Secretary of State's authority to issue driver's licenses and enact legislation regarding Senate Bill 1424, House Bill 2306, House Bill 2700, House Bill 3554, House Bill 3415 and any other legislation passed by the General Assembly.

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: September 1998

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Mark A. Novak
Assistant Counsel to the Secretary

SECRETARY OF STATE

JULY 1998 REGULATORY AGENDA

2701 S. Dirksen Parkway
Springfield, IL 62723
217/782-5356

- G) Related rulemakings and other pertinent information: None

- 1) Part(s) (Heading and Code Citation): Cancellation, Revocation or Suspension of Licenses or Permits, 92 Ill. Adm. Code 1040

1) Rulemaking:

- A) Description: Will incorporate recently enacted legislation.

- B) Statutory Authority: Implementing the Secretary of State's authority to issue driver's licenses and enact legislation regarding Senate Bill 1424, House Bill 2306, House Bill 2700, House Bill 3554, House Bill 3415 and any other legislation passed by the General Assembly

- C) Scheduled meeting/hearing dates: None

- D) Date agency anticipates First Notice: September 1998

- E) Affect on small businesses, small municipalities or not for profit corporations: None

- F) Agency contact person for information:

Mark A. Novak
Assistant Counsel to the Secretary
2701 S. Dirksen Parkway
Springfield, IL 62723
217/782-5356

- G) Related rulemakings and other pertinent information: None

- m) Part(s) (Heading and Code Citation): Commercial Driver Training Schools, 92 Ill. Adm. Code 1060

1) Rulemaking:

- A) Description: Will be amending provisions of the above referenced Part to implement changes within our Department and the industry.

- B) Statutory Authority: Section 6-419 of the Illinois Vehicle Code [625 ILCS 5/6-419]

SECRETARY OF STATE

JULY 1998 REGULATORY AGENDA

- C) Scheduled meeting/hearing dates: None

- D) Date agency anticipates First Notice: July 1998

- E) Affect on small businesses, small municipalities or not for profit corporations: This may have a beneficial impact upon small business. I do not believe this will have any effect on not for profit corporations or small municipalities.

- F) Agency contact person for information:

Mark A. Novak
Assistant Counsel to the Secretary
2701 S. Dirksen Parkway
Springfield, IL 62723
217/782-5356

- G) Related rulemakings and other pertinent information: None

MS 10/1/98

DEPARTMENT OF TRANSPORTATION

JULY 1998 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Minimum Safety Standards for Construction of School Buses Used in Special Education Transportation; 92 Ill. Adm. Code 444

1) Rulemaking:

- A) Description: This amendment will update references to the federal regulations.

- B) Statutory Authority: Implementing and authorized by Article VIII of Chapter 12 of the Illinois Vehicle Code [625 ILCS 5/12 - Article VIII]

- C) Scheduled meeting/hearing date: None scheduled

- D) Date agency anticipates First Notice: Within six months

- E) Effect on small businesses, small municipalities or not for profit corporations: This amendment will not affect small businesses.

F) Agency contact person for information:

Name: Christine Caronna-Beard, Rules Manager
Address: Illinois Department of Transportation
 Office of Chief Counsel, Room 300
 2300 South Dirksen Parkway
 Springfield, Illinois 62764
Telephone: 217-782-3215

- G) Related rulemakings and other pertinent information: 92 Ill. Adm. Code 440 and 444

- b) Part(s) (Heading and Code Citation): Oversize and Overweight Permit Movements on State Highways; 92 Ill. Adm. Code 554

1) Rulemaking:

- A) Description: These amendments include, among other things, clarification of when and how many escort vehicles are required with permit loads; the allowance of movements of mobile homes up to a total length of 115 feet in conformance with state law; the allowance of movements of overweight-only objects (for all legal dimensions) subject to normal permit restrictions, on a 24 hours per day, 7 days per week basis; and the removal of a restriction for movement of building sections at heights greater than 15 feet when under the authority of a single trip or round trip permit.

DEPARTMENT OF TRANSPORTATION

JULY 1998 REGULATORY AGENDA

- B) Statutory Authority: Implementing and authorized by Article III of the Illinois Size and Weight Law [625 ILCS 5/Ch. 15, Art. III]

- C) Scheduled meeting/hearing date: None scheduled

- D) Date agency anticipates First Notice: Within six months

- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will not change what is current industry practice; therefore, no change to small business costs is anticipated.

F) Agency contact person for information:

Name: Christine Caronna-Beard, Rules Manager
Address: Illinois Department of Transportation
 Office of Chief Counsel, Room 300
 2300 South Dirksen Parkway
 Springfield, Illinois 62764
Telephone: 217-782-3215

- G) Related rulemakings and other pertinent information: None

- c) Part(s) (Heading and Code Citation): Policy on Permits For Access Driveways to State Highways (92 Ill. Adm. Code 550)

1) Rulemaking:

- A) Description: This Part will be revised and updated to bring it into conformance with current highway design standards.

- B) Statutory Authority: Implementing and authorized by Sections 4-210, 4-211 and 4-212 of the Illinois Highway Code [606 ILCS 5/4-210, 4-211 and 4-212] and the Plat Act [765 ILCS 205]

- C) Scheduled meeting/hearing date: None scheduled

- D) Date agency anticipates First Notice: Within six months

- E) Effect on small businesses, small municipalities or not for profit corporations: Any small business desiring access to the State highway system via a driveway will be required to make application for a permit and to comply with the requirements of this Part.

F) Agency contact person for information:

Name: Christine Caronna-Beard, Rules Manager

DEPARTMENT OF TRANSPORTATION

JULY 1998 REGULATORY AGENDA

Address: Illinois Department of Transportation
Office of Chief Counsel, Room 300
2300 South Dirksen Parkway
Springfield, Illinois 62764
Telephone: 217-782-3215

- G) Related rulemakings and other pertinent information: None

- d) Part(s) (Heading and Code Citation): Signing to Traffic Generators and Motorist Services (92 Ill. Adm. Code 552)

1) Rulemaking:

- A) Description: This Part will be revised in order to bring it into conformance with the Department's rules on Tourist Oriented Directional Signing (92 Ill. Adm. Code 541) and with Business Logo Signing (92 Ill. Adm. Code 542).

- B) Statutory Authority: Implementing Article III of Chapter II of the Illinois Vehicle Code [625 ILCS 5/11-301 through 11-312] and Section 4-201.12 of the Illinois Highway Code [605 ILCS 5/4-201.12] and authorized by Sections 4-101.1 and 4-201.1 of the Illinois Highway Code [605 ILCS 5/4-101.1 and 4-201.1] and Section 4.08 of the Highway Advertising Control Act [225 ILCS 440/4.08].

- C) Scheduled meeting/hearing date: None scheduled

- D) Date agency anticipates First Notice: Within six months

- E) Effect on small businesses, small municipalities or not for Profit corporations: All types of small businesses desiring Department-installed signing along the State highway system will be required to comply with this Part.

- F) Agency contact person for information:

Name: Christine Caronna-Beard, Rules Manager
Address: Illinois Department of Transportation
Office of Chief Counsel, Room 300
2300 South Dirksen Parkway
Springfield, Illinois 62764
Telephone: 217-782-3215

- G) Related rulemakings and other pertinent information: None

- e) Part(s) (Heading and Code Citation): Transporting Pupils Where Walking Constitutes a Serious Safety Hazard (92 Ill. Adm. Code 556)

DEPARTMENT OF TRANSPORTATION

JULY 1998 REGULATORY AGENDA

1) Rulemaking:

- A) Description: The State Board of Education requested that the Department make revisions to the provisions in this Part regarding grouping of pupil grades for hazard point assignment.

- B) Statutory Authority: Implementing and authorized by Section 29-3 of the School Code [105 ILCS 5/29-3]

- C) Scheduled meeting/hearing date: None scheduled

- D) Date agency anticipates First Notice: Within six months

- E) Effect on small businesses, small municipalities or not for Profit corporations: This rulemaking will not impact small businesses.

- F) Agency contact person for information:

Name: Christine Caronna-Beard, Rules Manager
Address: Illinois Department of Transportation
Office of Chief Counsel, Room 300
2300 South Dirksen Parkway
Springfield, Illinois 62764
Telephone: 217-782-3215

- G) Related rulemakings and other pertinent information: 92 Ill. Adm. Code 557

- f) Part(s) (Heading and Code Citation): Custodial Transportation of Pupils Where Walking Constitutes a Serious Safety Hazard; (92 Ill. Adm. Code 557)

1) Rulemaking:

- A) Description: The State Board of Education requested that the Department revise Part 557 to make it consistent with Part 556 regarding grouping of pupil grades for hazard point assignment and, also, to recognize temporary hazards.

- B) Statutory Authority: Implementing and authorized by Section 29-5.2 of the School Code [105 ILCS 5/29-5.2].

- C) Scheduled meeting/hearing date: None scheduled

- D) Date agency anticipates First Notice: Within six months

- E) Effect on small businesses, small municipalities or not for

DEPARTMENT OF TRANSPORTATION

JULY 1998 REGULATORY AGENDA

Profit corporations: NoneF) Agency contact person for information:

Name: Christine Caronna-Beard, Rules Manager
Address: Illinois Department of Transportation
Office of Chief Counsel, Room 300
2300 South Dirksen Parkway
Springfield, Illinois 62764
Telephone: 217-782-3215

G) Related rulemakings and other pertinent information: 92 Ill. Adm. Code 556JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of June 23, 1998 through June 29, 1998 and have been scheduled for review by the Committee at its July 21, 1998 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start of First Notice</u>	<u>JCAR Meeting</u>
8/6/98	<u>Department of Revenue, Motor Fuel Tax (86 Ill Adm Code 500)</u>	5/1/98 22 Ill Reg 7550	7/21/98
8/6/98	<u>Department of Revenue, Special County Retailers' Occupation Tax for Public Safety (86 Ill Adm Code 670)</u>	5/1/98 22 Ill Reg 7564	7/21/98
8/6/98	<u>Department of Revenue, Special County Service Occupation Tax for Public Safety (86 Ill Adm Code 680)</u>	5/1/98 22 Ill Reg 7568	7/21/98
8/6/98	<u>Office of the Attorney General, Immigration Services (14 Ill Adm Code 485)</u>	5/8/98 22 Ill Reg 7714	7/21/98
8/7/98	<u>Department of Insurance, Examination and Audit Procedure (50 Ill Adm Code 4401)</u>	3/27/98 22 Ill Reg 5782	7/21/98
8/7/98	<u>Department of Insurance, Definition of Salary (50 Ill Adm Code 4402)</u>	3/27/98 22 Ill Reg 5775	7/21/98
8/7/98	<u>Department of Insurance, Electronic Filing (50 Ill Adm Code 4405)</u>	3/27/98 22 Ill Reg 5778	7/21/98
8/7/98	<u>Illinois State Treasurer, Procurement (44 Ill Adm Code 1400)</u>	5/8/98 22 Ill Reg 7902	7/21/98

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

8/7/98	Department of Human Services, Temporary Assistance for Needy Families (89 Ill Adm Code 112)	3/6/98 22 Ill Reg 4354	7/21/98
8/9/98	Department of Central Management Services, Merit and Fitness (80 Ill Adm Code 302)	5/8/98 22 Ill Reg 7727	7/21/98
8/9/98	Department of Human Services, Minimum Standards for Certification of Developmental Training Programs (59 Ill Adm Code 119)	4/24/98 22 Ill Reg 7086	7/21/98
8/12/98	Department of Human Services, WIC Vendor Management Code (77 Ill Adm Code 672)	2/6/98 22 Ill Reg 2643	7/21/98
8/12/98	Department of Professional Regulation, Professional Geologist Licensing Act (68 Ill Adm Code 1252)	5/1/98 22 Ill Reg 7530	7/21/98

Rules acted upon during the quarter of April 1 through June 30, 1998 (Issues 1-13) are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 4401 published in Issue 40 will be listed as 50-4401-40. The letter "R" designates a rule that is being repealed. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jmatate@ccgate.sos.state.il.us (Internet address).

PROPOSED

PROPOSED	35-830-27	80-1650-17,22	92-172-24
8-258-26	35-831-27	80-2800-28	92-173-24
14-485-19	35-885-25	83-410-26	92-177-24
17-110-21	38-300-20	83-411-26	92-178-24
17-510-21	38-356-20	83-418-17	92-179-24
17-530-21	38-392-20	83-450-26	92-180-24
17-550-20	38-900-20	83-595-27	
17-570-20	41-170-21	83-745-26	ADOPTED
17-590-21	44-1R-20	86-100-17	1-100-27
17-680-21	44-1-20	86-500-18,19,20	2-6000-23
17-690-20	44-10-22	86-530-18	8-3-28
17-715-20	44-525R-25	86-670-18	8-270-27
17-720-20	44-526-25	86-680-18	8-755-22
17-730-20	44-650-23	86-3000-17,22	11-502-24
17-740-20	44-660-23	89-10-28	11-502-24
17-880-21	44-1120-22	89-14-26	11-1770-22
17-2010-21	44-1400-19	89-103-22	14-135-23
17-3025-21	44-2000-28	89-112-22,26,27,28	14-145-17
20-720-21	44-5000-20	89-113-26,27	14-510-24
20-1235-18	50-909-18	89-114-27	14-550-24
23-1-23	50-935-21	89-117-20,26	17-130-28
23-56-23	50-1406-28	89-120-22	17-650-19
23-145-19	50-1407-21	89-120-22	17-660-19
23-575-23	50-4425-18	89-121-20,24,28	17-670-19
26-201-19	56-350-20	89-140-18	17-1536-24
26-202-19	59-103-28	89-148-20	17-2080-24
26-204-19	59-119-17	89-153-19	17-2520-24
26-216-19	59-120-28	89-165-26	20-1570-23
35-211-18	62-240-27	89-140-26	23-25-28
35-252-25	68-1210-23	89-240-24	23-252-18
35-304-24	68-1252-18	89-300-19	23-451-18
35-310-18	68-1283-18	89-302-18	23-2700-26
35-506-24	68-1300-21	89-305R-19	23-2720-26
35-580-17	68-1330-19	89-315-19	23-2730-26
35-703-24	68-1380-24	89-316-21	23-2733-26
35-720-24	68-1456-21	89-360-26	23-2735-26
35-721-24	77-661-20	89-431-19	23-2736-26
35-722-24	77-1100-22	89-437-27	23-2755-26
35-723-24	77-1110-22	89-507-28	23-2760-26
35-724-24	77-2030-28	89-676-19	23-2761-26
35-725-24	77-2055R-22	89-684-21	23-2763-26
35-726-24	77-2090-28	89-686-19,20	23-2764-26
35-728-24	80-150-20	89-716R-19	23-2765-26
35-738-24	80-302-19	89-4201-26	23-2771-26
35-740-18	80-310-18	92-107-24	23-2790-26
		92-171-24	32-420R-24

32-422-24	83-505-23
32-610R-23	83-506-23
35-195R-23	83-605-28
35-201-27,28	83-650-28
35-211-27	83-757-21
35-215-27	86-130-28
35-220-28	86-495-28
35-310-27	86-516-25
35-703-18	86-517-25
35-720-18	86-750-25
35-721-18	86-3000-24
35-724-18	89-120-20
35-725-18	89-121-19
35-728-18	89-140-24
35-733-18	89-144-22
35-742-25	89-148-27
35-811-27	89-302-17,21
35-813-27	89-309-21
35-848-27	89-401-24
44-750-28	89-679-24
50-4404-20	92-441-28
50-4415-19	92-541-28
50-4435-24	92-1010-20
59-115-20	92-1020-27
59-119-19	
59-121-19	EMERGENCY
62-240-20,21	23-56-23
62-300-20	23-575-23
62-2501-27	44-660-27
68-900R-25	44-1120-28
68-1220-24	44-1300-28
68-1230-24	44-2000-28
68-1245-20	59-103-28
68-1252-24	59-120-28
68-1275-24	68-1455-20
68-1285-24	77-2030-28
68-1375-20	77-2090-28
71-40-23	80-1650-17,22
77-205-22	80-2800-28
77-250-22	83-410-26
77-280R-24	83-411-26
77-280-24	83-450-26
77-510-18	89-112-28
77-515-28	89-121-24,28
77-696-25	89-302-17
77-820-22	89-507-28
77-860-21	
77-860R-21	PEREMPTORY
80-1650-17	8-125-22
80-3000-28	80-310-17,18
83-416-23	

ILLINOIS REGISTER
ADMINISTRATIVE CODE ORDER FORM

PLEASE USE THIS FORM FOR ALL ORDERS OR TO NOTIFY US OF A CHANGE OF ADDRESS. ALL ORDERS MUST BE PAID IN ADVANCE BY CHECK, MONEY ORDER, VISA, MASTER CARD OR DISCOVER CARD. CHECKS AND MONEY ORDERS MUST BE PAYABLE TO THE "SECRETARY OF STATE".

MICROFICHE SETS OF THE ILLINOIS REGISTER @\$200.00 PER SET.

1977-1978 1979 1980 1981 1982 1983 1984 1985 1986
1987 1988 1989 1990 1991 1992 1993 1994 1995 1996

CUMULATIVE INDICES TO THE ILLINOIS REGISTER @\$1.00 EACH.

1981 1982 1983 1984 1985 1986 1987 1988 1989

SECTIONS AFFECTED INDICES TO THE ILLINOIS REGISTER @\$1.00 EACH.

1984 1985 1986 1987 1988 1989

CUMULATIVE/SECTIONS AFFECTED INDICES @\$5.00 EACH.

1990 1991 1992 1993 1994 1995 1996

BACK ISSUES OF THE ILLINOIS REGISTER (CURRENT YEAR ONLY) @\$10.00 EACH.

(ISSUE #)

(ISSUE DATE)

ANNUAL SUBSCRIPTION TO THE ILLINOIS REGISTER @\$290.00 (52 ISSUES)

NEW RENEWAL

ANNUAL SUBSCRIPTION TO THE ILLINOIS ADMINISTRATIVE CODE ON
CD-ROM; COMPLETELY UPDATED EDITION PUBLISHED QUARTERLY
@\$290.00 FOR 4 QUARTERLY EDITIONS

TOTAL AMOUNT OF ORDER: \$ _____
CHECK VISA MC DISCOVER CARD#:

EXPIRATION DATE: _____ SIGNATURE: _____
(IF CHANGE OF ADDRESS, PLEASE LIST BOTH THE OLD AND NEW ADDRESS: _____)

(NAME, PLEASE TYPE OR PRINT)

(ADDRESS)

(CITY, STATE, ZIP CODE AND TELEPHONE #)

MAIL TO:

OR FAX: (217) 854-0308

GEORGE H. RYAN
SECRETARY OF STATE
INDEX DEPARTMENT
111 E. MONROE
SPRINGFIELD, IL 62756

